

36	142	Subclass
ISSUE CLASSIFICATION		

**PATENT NUMBER**  
**6474006**



**6474006**

## U.S. UTILITY Patent Application

J-2 J-84	<i>gk</i>	O.I.P.E.	PATENT DATE
	SCANNED	Q.A. <i>CK</i>	NOV 05 2002

APPLICATION NO. 09/617732	CONT/PRIOR	CLASS 036	SUBCLASS 142	ART UNIT 3728	EXAMINER BATTENSON
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**APPLICANT'S**

William Cummings  
Jay Levine

Stabilizer athletic shoes

### Задания

PTO-2040  
12/89[illegible]

<input type="checkbox"/> <b>TERMINAL DISCLAIMER</b>	<b>DRAWINGS</b> Sheets Drawg. <u>3</u> Figs. Drawg. <u>7</u> Print Fig. <u>4+5</u>		<b>CLAIMS ALLOWED</b> Total Claims <u>4</u> Print Claim for O.G. <u>1</u>	
	<input type="checkbox"/> The term of this patent subsequent to _____ (date) has been disclaimed.		<b>NOTICE OF ALLOWANCE MAILED</b> <u>8/29/02</u>	
<input type="checkbox"/> The term of this patent shall not extend beyond the expiration date of U.S. Patent. No. _____ _____ _____	M.D. Patterson Primary Examiner <u>M.D. Patterson</u> <u>8/26/02</u> (Primary Examiner)    (Date)		<b>ISSUE FEE</b> Amount Due <u>\$40.00</u> Date Paid <u>9-25-02</u>	
	<input type="checkbox"/> The terminal _____ months of this patent have been disclaimed.		<b>ISSUE BATCH NUMBER</b> <u>E. J. Patton</u> <u>9/10/02</u> (Legal Instruments Examiner)    (Date)	

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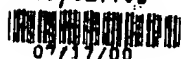
# PATENT APPLICATION



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INITIALS

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## CONTENTS

Date Received  
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SEARCHED			
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36	25R	1/11/01	CMOP
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36	127	1/11/01	CMOP
Updated		6/20/02	CMOP
Updated		6/27/02	CMOP
36	88		
36	92	6/27/02	CMOP
Updated		8/26/02	CMOP

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	Date	Exmr.

INTERFERENCE SEARCHED			
Class	Sub.	Date	Exmr.
As	Nov	8/26/60	MOF

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ISSUE SLIP STAPLE AREA (for additional cross references)

POSITION	INITIALS	ID NO.	DATE
FEE DETERMINATION	J.B.	22222	2.22.00
O.I.P.E. CLASSIFIER			
FORMALITY REVIEW	HK	839	9/26/00
RESPONSE FORMALITY REVIEW			

INDEX OF CLAIMS

✓ ..... Rejected      N ..... Non-elected  
 = ..... Allowed      I ..... Interference  
 - (Through numeral)... Canceled      A ..... Appeal  
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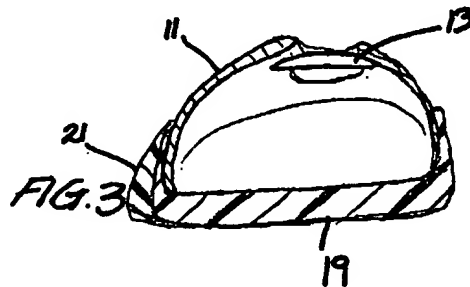
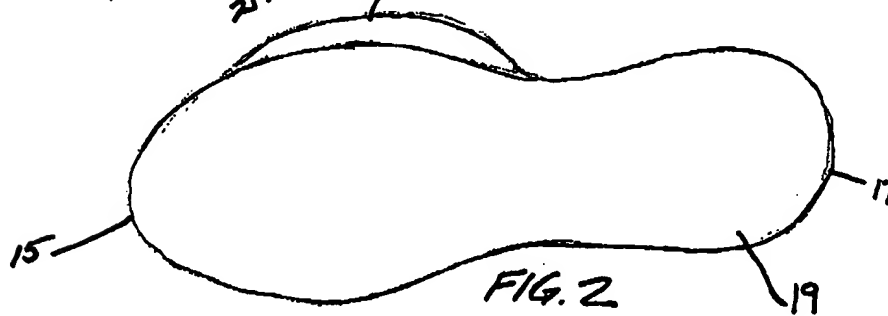
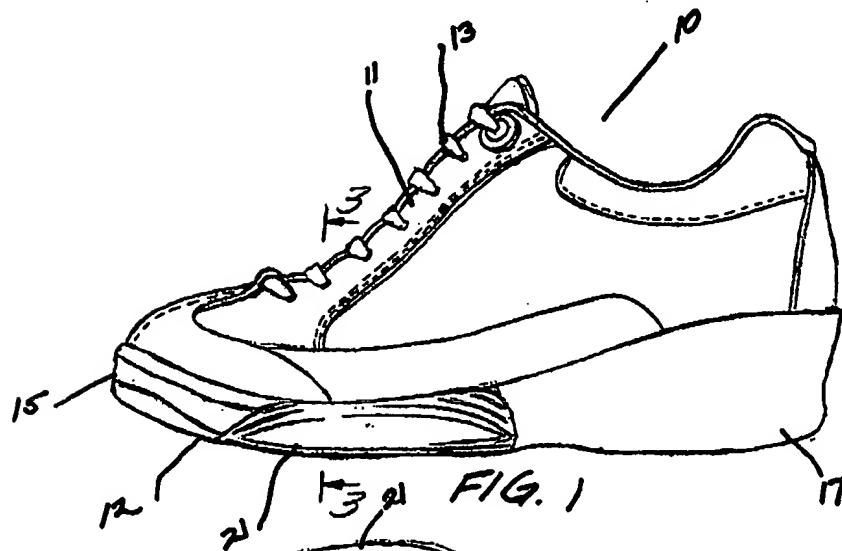
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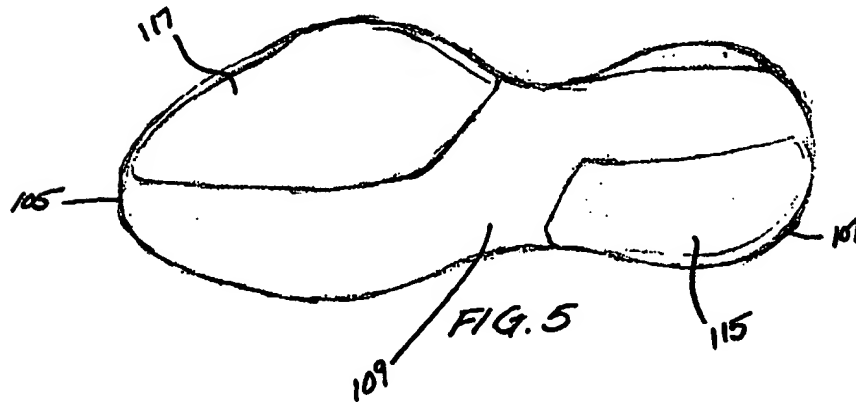
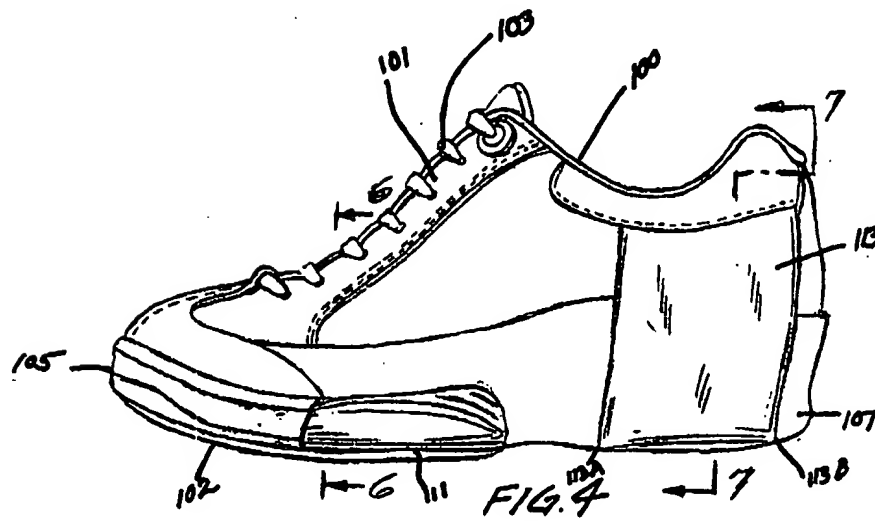
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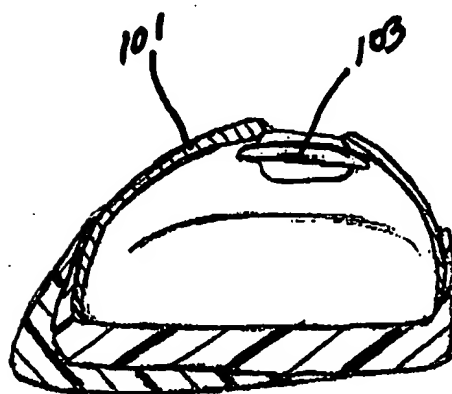


FIG. 6

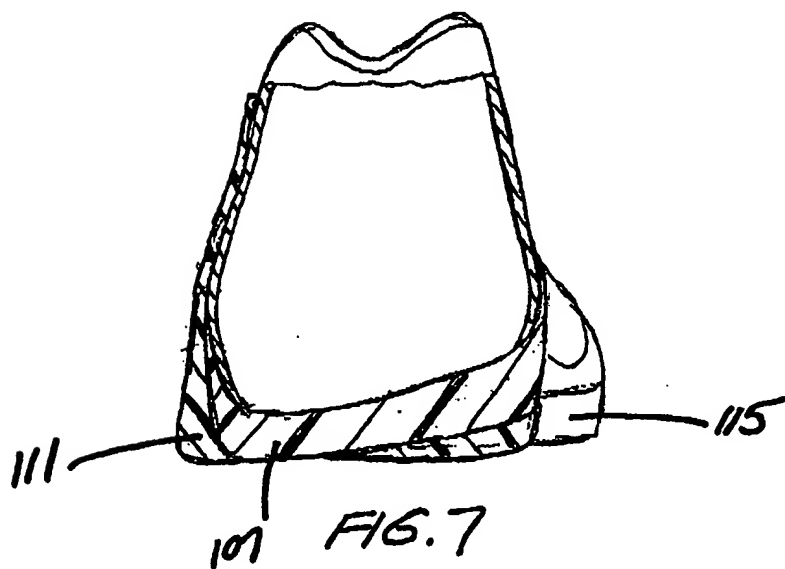


FIG. 7



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## STABILIZER ATHLETIC SHOES

## FIELD OF THE INVENTION

This invention relates generally to athletic shoes and particularly to stabilizer athletic shoes for persons engaged in athletic activities. More specifically, this invention relates to an improved athletic shoes construction which incorporates features designed to increase foot and ankle stability during various athletic activities in order to decrease muscle fatigue, enhance performance and minimize injuries.

## BACKGROUND OF THE INVENTION

Various athletic shoes are presently being marketed for different activities such as running, tennis, basketball, racquetball and golf. These shoes are designed to prevent, or at least minimize injuries caused by lateral foot ankle instability during such activities. Current athletic shoes do not adequately guard against injuries caused by all type of athletic activities, including those activities which involve side-to-side jumping motions. These activities have greater tendency for lateral foot ankle instability, and hence injury to the foot and/or ankle.

U.S. Pat. No. 3,738,373, issued Jun. 12, 1973 describes an athletic shoe which incorporates a flexible wedge mounted therein which extends completely to the rear edge of the heel thereby providing maximum "cushion".

An earlier patent, U.S. Pat. No. 2,847,769, issued Aug. 19, 1958 discloses shoes for golfers which are designed to compel a golfer to automatically assume the correct golf stance.

Other athletic shoes incorporate air-cushioning means, usually in the heels, for absorbing the impact experienced during said activities.

So far as it is known, there is no single pair of athletic shoes which adequately affords the desired degree of protection and guards against injuries resulting from foot instability during athletic activities of the type hereinbefore mentioned. This is largely because the foot-angle structure is complex and includes numerous joint axis with different movements and displacements in response to varying impacts and positions. Thus, the design of an athletic shoe which can protect against the different possible injuries resulting from a variety of athletic activities must take into consideration such factors as supination, pronation, dorsiflexion, plantarflexion, abduction, and adduction which occur at the foot-ankle joint during said sports activities. Accordingly, there is need for a single athletic shoe which is designed to afford maximum benefits for those engaged in various athletic activities in which foot-ankle injuries are matter of common experiences.

It is therefore an object of the present invention to provide an athletic shoe which is designed to afford maximum protection against injuries resulting from sports activities involving jumping and side-to-side motions such as, e.g., running, jogging, basketball, tennis and racquetball.

It is a further object of this invention to provide athletes with athletic shoes which incorporate features that counter the adverse effects of such factors as supination, pronation, dorsiflexion, plantarflexion, abduction and adduction experienced by athletes during several athletic activities.

The foregoing and other objects of this invention will become more apparent from the following detailed description and accompanying drawings.

## SUMMARY OF THE INVENTION

In accordance with the present invention an athletic shoe is provided which, because of its unique construction,

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assures dynamic foot stability, reduces lateral ankle instability and alleviate foot fatigue which often results from athletic activities such as jogging, running, tennis, basketball, jumping and even weight lifting exercises. In one embodiment, the athletic shoe comprises heel and a sole having a rear foot portion and a forefoot portion which has a medial section and a lateral section. The forefoot portion has a lateral wedge conformally affixed thereto or formed, integrally therewith, said lateral wedge member being tapered from the medial section toward the lateral mid portion of the forefoot.

In a second embodiment, the shoe is similar to the first embodiment and further includes a lateral heel stabilizer conformally attached to the heel counter, a medial heel wedge spanning the length and width of the shoe heel, and a tapered lateral forefoot member attached to the bottom sole of the shoe.

## BRIEF DESCRIPTION OF THE DRAWINGS

In the drawings, wherein the same reference numerals in the different figures designate like parts:

FIG. 1 is a side elevational partly perspective view of an athletic shoe incorporating a lateral forefoot wedge in accordance with one embodiment of the present invention;

FIG. 2 is a bottom view of the shoe shown in FIG. 1;

FIG. 3 is a sectional view taken along the line 3—3 of FIG. 1;

FIG. 4 is a side elevational, partly perspective view of an athletic shoe made according to another embodiment of this invention;

FIG. 5 is a bottom view of the shoe shown in FIG. 4;

FIG. 6 is a view taken along the line 6—6 of FIG. 4; and

FIG. 7 is a view taken along the line 7—7 of FIG. 4;

FIGS. 1-7 illustrate the left shoe, it being understood that the right shoe is similar in construction with the specific features being located on opposite side of the shoe.

## DETAILED DESCRIPTION OF DIFFERENT EMBODIMENTS THE INVENTION

Referring to FIGS. 1-3, there is shown, in FIG. 1, a sport shoe 10 having a flexible top portion 11 mounted on top of the shoe sole 12 and is tied around the top portion 11 by the shoe lace 13. The sole 12 extends from the toe portion 15 to the heel portion 17 which may be rigid or semi-rigid in construction. The bottom or outsole 19 (see FIG. 2) may be ribbed, grooved or patterned as desired. For the purposes of use in some sports, the heel may be cushioned, or rendered resilient and capable of absorbent shocks upon impact by including air ducts, air pellets or spring means between the heel and the sole. Such constructions are well known in the prior art. For the purposes of this invention, in the embodiment shown in FIGS. 1-3, the shoe is provided with an external lateral forefoot stabilizer 21 which is formed as an integral part of the shoe conformally contouring the lateral forefoot portion of the shoe. The lateral forefoot stabilizer 21 is preferably about  $\frac{1}{4}$  to about  $\frac{1}{2}$  inch thick and is attached to the edge of the sole, with its thickness increasing gradually toward the lateral side where it is at its greatest thickness. The lateral forefoot stabilizer 21 extends a distance of from about 2 to about 4 inches, from the middle toward the toe portion 15, thus extending from the 5<sup>th</sup> toe proximal to the 5<sup>th</sup> metatarsal base. The lateral forefoot stabilizer 21 may be made of the same material used in forming the shoes, generally hard rubber, neoprene or a plastic, such as a copolymer of ethylene and vinyl acetate

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(EVA). The provision of the lateral forefoot wedge 21 will accomplish two goals, i.e., locking the metatarsal joint at propulsive phase of gait thus producing a stronger lever arm which results in increased push-off power. In addition, it decreases lateral ankle instability in the types of sport activities which require excessive medial to lateral movements.

Referring now to the embodiment of this invention illustrated in FIGS. 4-7, there is shown, in FIG. 4, an athletic shoe generally designated as 100 having a flexible top portion 101 mounted on top of the shoe sole 102 and tied around the top foot portion 101 by the shoe lace 103. The sole 102 extends from the toe portion 105 to the heel portion 107 which may be rigid or semi-rigid in construction. The bottom shoe sole 109 may be ribbed, grooved or patterned as desired. As in the embodiment shown in FIGS. 1-3, the heel may be cushioned or rendered resilient so as to withstand the impacts experienced by athletes during jumping, running, jogging and other foot-to-ground impact producing activities.

In this embodiment of the invention, and as seen in FIGS. 4-7, the shoe 100 is provided with an external lateral forefoot stabilizer 111, a lateral heel stabilizer 113, a medial heel wedge 115 and a bottom forefoot wedge 117, all of which contribute to the rigidity and dynamic stability of the shoe.

The lateral forefoot stabilizer 111 serves a similar function and purpose as the lateral forefoot stabilizer 21 described in conjunction with FIG. 1. The lateral forefoot stabilizer 111 is made of plastic or rubber, the same as the shoe, is disposed proximal to the 5<sup>th</sup> metatarsal, is conformably attached laterally to the shoe, extending about 1 to 3 inches from the middle toward the toe portion 105. The provision of the lateral forefoot stabilizer 111 guards against lateral instability of the foot and the ankle (sprains and sprains) and excessive frontal plane motions.

The lateral heel stabilizer 113 is a piece of rubber or plastic (EVA) which is about 2 to 3 inches wide, about 2-3 inches high (depending on the height of the shoe) and is about 1/4 to 1/2 inch thick. The lateral heel stabilizer 113 is attached to the rear exterior of the shoe above the heel 107 extending from the proximal end 113B to the distal end 113A near the top of the shoe, thus adding firm support to the lateral heel and reducing lateral ankle sprains experienced in sports such as basketball and tennis. It also provides added stability and push-off power in such activity as weight lifting.

The athletic shoe 100 also comprises a medial heel wedge 115, which may be ribbed, grooved or patterned as desired, and it is incorporated into the heel structure and/or affixed thereto at about 2 to 5 degrees relative to the ground. As shown in FIG. 5, the wedge 115 spans the entire length and approximately 1/4 of the width of the heel with the highest part of the wedge being at the medial inner heel. Thus, the

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rear of the athletic shoe will have a mild tilt outward, i.e., away from the body. The incorporation of the medial heel wedge in the athletic shoe as aforesaid limits the pronation and inversion of the foot as the heel strikes the ground. It is a matter of common experience that most overuse syndrome, including plantar fasciitis, posterior tibial medial tendonitis, knee and lower back pain are due to, or exacerbated by over pronation or an exaggerated inward rolling of the foot. By providing a medial heel wedge as herein described, pronation will be effectively reduced, foot and leg fatigue will be alleviated and foot stability is increased, all of which contribute to dynamic stability during athletic performance.

Referring again to FIG. 5, the shoe 100 is provided, at its bottom, with a tapered lateral forefoot wedge 117 conformally contoured to the forefoot, which is approximately 1/4 to 1/2 inch thick, and is tapered medial to lateral from the middle forefoot, with its thickest part being at the lateral side. In orthopedic jargon, the forefoot wedge 117 extends from the 5<sup>th</sup> toe proximal to the 5<sup>th</sup> metatarsal base. As previously mentioned, the inclusion of the lateral foot wedge in the shoe results in a more vertical push-off power and decreases lateral ankle stability whenever excessive medial to lateral movements are encountered.

It can be appreciated from the foregoing description of the different embodiments of the novel athletic shoes that several changes and modifications may be made in the structure of the shoe which are suggested by the description and the drawings herein. Such changes and modifications are nevertheless within the scope of the present invention.

What is claimed is:

1. A stabilizer athletic shoe comprising a sole having a bottom portion, a forefoot having a top portion, a rearfoot portion, an edge and a heel portion, said forefoot portion having a medial part and a lateral part, an external lateral foot stabilizer attached to the edge of said sole, a bottom forefoot wedge member attached to the bottom of said sole, a medial heel wedge having a bottom portion wherein said heel wedge spans substantially the entire length, and about one-half the width of said heel, and a heel stabilizer extending from the bottom portion of said heel to the top of the rearfoot portion.

2. A stabilizer athletic shoe as in claim 1 wherein said external lateral foot stabilizer is from about 1/4 to about 1/2 inch thick, with the thickness increasing from said medial part to said lateral part of said forefoot portion.

3. A stabilizer athletic shoe as in claim 1 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

4. A stabilizer athletic shoe as in claim 2 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

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PATENT APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

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\*U.S. GPO: 1999-459-082/10144



## UNITED STATES PATENT AND TRADEMARK OFFICE

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Bib Data Sheet

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<b>APPLICANTS</b> William G. Cummings, Franklin Lakes, NJ ; Jay G. Levine, New City, NY ;					
<b>** CONTINUING DATA *****</b> <i>none</i>					
<b>** FOREIGN APPLICATIONS *****</b> <i>none</i>					
<b>IF REQUIRED, FOREIGN FILING LICENSE</b> <b>GRANTED ** 09/26/2000</b> <b>** SMALL ENTITY **</b>					
Foreign Priority claimed <input type="checkbox"/> yes <input checked="" type="checkbox"/> no		<b>STATE OR COUNTRY</b> NJ	<b>SHEETS DRAWING</b> 3	<b>TOTAL CLAIMS</b> 7	<b>INDEPENDENT CLAIMS</b> 1
35 USC 119 (a-d) conditions met <input type="checkbox"/> yes <input checked="" type="checkbox"/> no <input type="checkbox"/> Met after Allowance					
Verified and Acknowledged		Examiner's Signature <i>JWB</i> Initials			
<b>ADDRESS</b>  James W Badie Stoll Miskin Hoffman & Badie Empire State Building Suite 6110 350 Fifth Avenue New York, NY 10118					
<b>TITLE</b> Stabilizer athletic shoes					
<b>FILING FEE RECEIVED</b> 345	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		<input type="checkbox"/> All Fees		
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JWB-2000-5-P

**STABILIZER ATHLETIC SHOES**

**Inventors**

**William G. Cummings  
Jay G. Levine**

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### **ABSTRACT**

An athletic shoe is provided which contributes to dynamic stability of the shoe during several athletic activities. The athletic shoe comprises a tapered lateral wedge section and may further include a lateral heel stabilizer, a medial heel wedge and a tapered lateral forefoot section.

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### **FIELD OF THE INVENTION**

This invention relates generally to athletic shoes and particularly to stabilizer athletic shoes for persons engaged in athletic activities. More specifically, this invention relates to an improved athletic shoes construction which incorporate features designed to increase foot and ankle stability during various athletic activities in order to decrease muscle fatigue, enhance performance and minimize injuries.

### **BACKGROUND OF THE INVENTION**

Various athletic shoes are presently being marketed for different activities such as running, tennis, basketball, racquetball and golf. These shoes are designed to prevent, or at least minimize injuries caused by lateral foot ankle instability during such activities. Current athletic shoes do not adequately guard against injuries caused by all type of athletic activities, including those activities which involve side-to-side jumping motions. These activities have greater tendency for lateral foot ankle instability, and hence injury to the foot and/or ankle.

United States Patent No. 3,738,373, Issued June 12, 1973 describes an athletic shoe which incorporates a flexible wedge mounted therein which extends completely to the rear edge of the heel thereby providing maximum "cushion".

An earlier patent, United States Patent No. 2,847,769, Issued August 19, 1958 discloses shoes for golfers which are designed to compel a golfer to automatically assume the correct golf stance.

Other athletic shoes incorporate air-cushioning means, usually in the heels, for absorbing the impact experienced during said activities.

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So far as it is known, there is no single pair of athletic shoes which adequately affords the desired degree of protection and guards against injuries resulting from foot instability during athletic activities of the type hereinbefore mentioned. This is largely because the foot-ankle structure is complex and includes numerous joint axes with different movements and displacements in response to varying impacts and positions. Thus, the design of an athletic shoe which can protect against the different possible injuries resulting from a variety of athletic activities must take into consideration such factors as supination, pronation, dorsiflexion, plantarflexion, abduction, and adduction which occur at the foot-ankle joint during said sports activities. Accordingly, there is need for a single athletic shoe which is designed to afford maximum benefits for those engaged in various athletic activities in which foot-ankle injuries are a matter of common experiences.

It is therefore an object of the present invention to provide an athletic shoe which is designed to afford maximum protection against injuries resulting from sports activities involving jumping and side-to-side motions such as, e.g., running, jogging, basketball, tennis and racquetball.

It is a further object of this invention to provide athletes with athletic shoes which incorporate features that counter the adverse effects of such factors as supination, pronation, dorsiflexion, plantarflexion, abduction and adduction experienced by athletes during several athletic activities.

The foregoing and other objects of this invention will become more apparent from the following detailed description and accompanying drawings.



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### **SUMMARY OF THE INVENTION**

In accordance with the present invention an athletic shoe is provided which, because of its unique construction, assures dynamic foot stability, reduces lateral ankle instability and alleviate foot fatigue which often results from athletic activities such as jogging, running, tennis, basketball, jumping and even weight lifting exercises. In one embodiment, the athletic shoe comprises heel and a sole having a rear foot portion and a forefoot portion which has a medial section and a lateral section. The forefoot portion has a lateral wedge conformally affixed thereto or formed, integrally therewith, said lateral wedge member being tapered from the medial section toward the lateral mid portion of the forefoot.

In a second embodiment, the shoe is similar to the first embodiment and further includes a lateral heel stabilizer conformally attached to the heel counter, a medial heel wedge spanning the length and width of the shoe heel, and a tapered lateral forefoot member attached to the bottom sole of the shoe.

### **BRIEF DESCRIPTION OF THE DRAWINGS**

In the drawings, wherein the same reference numerals in the different figures designate like parts:

Figure 1 is a side elevational partly perspective view of an athletic shoe incorporating a lateral forefoot wedge in accordance with one embodiment of the present invention;

Figure 2 is a bottom view of the shoe shown in Figure 1;

Figure 3 is a sectional view taken along the line 3-3 of Figure 1;

Figure 4 is a side elevational, partly perspective view of an athletic shoe made according to another embodiment of this invention;

Figure 5 is a bottom view of the shoe shown in Figure 4;  
Figure 6 is a view taken along the line 6-6 of Figure 4; and  
Figure 7 is a view taken along the line 7-7 of Figure 4;

Figures 1-7 illustrate the left shoe, it being understood that the right shoe is similar in construction with the specific features being located on opposite side of the shoe.

#### **DETAILED DESCRIPTION OF DIFFERENT EMBODIMENTS THE INVENTION**

Referring to Figures 1-3, there is shown, in Figure 1, a sport shoe 10 having a flexible top portion 11 mounted on top of the shoe sole 12 and is tied around the top portion 11 by the shoe lace 13. The sole 12 extends from the toe portion 15 to the heel portion 17 which may be rigid or semi-rigid in construction. The bottom or outsole 19 (see Figure 2) may be ribbed, grooved or patterned as desired. For the purposes of use in some sports, the heel may be cushioned, or rendered resilient and capable of absorbing shocks upon impact by including air ducts, air pellets or spring means between the heel and the sole. Such constructions are well known in the prior art. For the purposes of this invention, in the embodiment shown in Figures 1-3, the shoe is provided with an external lateral forefoot wedge member 21 which is formed as an integral part of the shoe conformally contouring the lateral forefoot portion of the shoe. The lateral forefoot wedge 21 is preferably about 1/8 to about 1/4 inch thick and is tapered from medial to lateral from the middle of the forefoot, with its thickness increasing gradually toward the lateral side where it is at its greatest thickness. The lateral forefoot wedge 21 extends a distance of from about 2 to about 4 inches, from the middle toward the toe portion 15, thus extending from the 5th toe proximal to the 5th metatarsal base. The lateral forefoot wedge 21 may be made of the same material used in forming the shoes, generally hard rubber, neoprene or a plastic

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such as a copolymer of ethylene and vinyl acetate (EVA). The provision of the lateral forefoot wedge 21 will accomplish two goals, i.e., locking the metatarsal joint at propulsive phase of gait thus producing a stronger lever arm which results in increased push-off power. In addition, it decreases lateral ankle instability in the types of sport activities which require excessive medial to lateral movements.

Referring now to the embodiment of this invention illustrated in Figures 4-7, there is shown, in Figure 4, an athletic shoe generally designated as 100 having a flexible top portion 101 mounted on top of the shoe sole 102 and tied around the top foot portion 101 by the shoe lace 103. The sole 102 extends from the toe portion 105 to the heel portion 107 which may be rigid or semi-rigid in construction. The bottom shoe sole 109 may be ribbed, grooved or patterned as desired. As in the embodiment shown in Figures 1-3, the heel may be cushioned or rendered resilient so as to withstand the impacts experienced by athletes during jumping, running, jogging and other foot-to-ground impact producing activities.

In this embodiment of the invention, and as seen in Figures 4-7, the shoe 100 is provided with an external lateral forefoot stabilizer 111, a lateral heel stabilizer 113, a medial heel wedge 115 and a bottom forefoot wedge 117, all of which contribute to the rigidity and dynamic stability of the shoe.

The lateral forefoot stabilizer 111 serves a similar function and purpose as the lateral forefoot stabilizer 21 described in conjunction with Figure 1. The lateral forefoot stabilizer 111 is made of plastic or rubber, the same as the shoe, is disposed proximal to the 5th metatarsal, is conformably attached laterally to the shoe, extending about 1 to 3 inches from the middle toward the toe portion 105. The provision of the lateral forefoot stabilizer 111 guards against lateral instability of the foot and the ankle (sprains and sprains) and excessive frontal plane motions.

Ins 02

~~The lateral heel stabilizer 113 is a piece of rubber or plastic (EVA) which is about 2 to 3 inches wide, about 2-3 inches high (depending on the height of the shoe) and is about 1/8 to 1/4 inch thick. The lateral heel stabilizer 113 is conformably attached to the lateral heel counter and encompasses substantially the entire heel counter from the distal end 113A to the proximal end 113B, thus adding firm support to the lateral heel and reducing lateral ankle sprains experienced in sports such as basketball and tennis. It also provides added stability and push-off power in such activity as weight lifting.~~

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~~The athletic shoe 100 also comprises a medial heel wedge 115, which may be ribbed, grooved or patterned as desired, and it is incorporated into the heel structure and/or affixed thereto at about 2 to 5 degrees relative to the ground. As shown in Figure 5, the wedge 115 spans the entire length and width of the heel with the highest part of the wedge being at the medial inner heel. Thus, the rear of the athletic shoe will have a mild tilt outward, i.e., away from the body. The incorporation of the medial heel wedge in the athletic shoe as aforesaid limits the pronation and inversion of the foot as the heel strikes the ground. It is a matter of common experience that most overuse syndrome, including plantar fasciitis, posterior tibial medial tendonitis, knee and lower back pain are due to, or exacerbated by over pronation or an exaggerated inward rolling of the foot. By providing a medial heel wedge as herein described, pronation will be effectively reduced, foot and leg fatigue will be alleviated and foot stability is increased, all of which contribute to dynamic stability during athletic performance.~~

Referring again to Figure 5, the shoe 100 is provided, at its bottom, with a tapered lateral forefoot wedge 117 conformally contoured to the forefoot, which is approximately 1/8 to 3/16 inch thick, and is tapered medial to lateral from the middle

forefoot, with its thickest part being at the lateral side. In orthopedic jargon, the forefoot wedge 117 extends from the 5th toe proximal to the 5th metatarsal base. As previously mentioned, the inclusion of the lateral foot wedge in the shoe results in a more vertical push-off power and decreases lateral ankle stability whenever excessive medial to lateral movements are encountered.

It can be appreciated from the foregoing description of the different embodiments of the novel athletic shoes that several changes and modifications may be made in the structure of the shoe which are suggested by the description and the drawings herein. Such changes and modifications are nevertheless within the scope of the present invention.

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**CLAIMS:**

*Add a17*

1. An athletic shoe comprising a sole having a forefoot portion and a rearfoot, said forefoot portion having a medial part and a lateral part, and a heel portion, wherein said forefoot portion includes a lateral wedge member, said lateral wedge member being tapered from medial to lateral middle of the forefoot portion.
2. An athletic shoe as in claim 1 wherein said wedge member is from about 1/8 inch to about 1/4 inch thick, with said thickness increasing gradually from the medial to the lateral part of said forefoot.
3. An athletic shoe as in claim 1 said heel portion having a heel counter, wherein said shoe further includes a lateral heel stabilizer conformally attached to said heel counter and extending from the proximal end of said heel counter to the distal end of said heel counter.
4. An athletic shoe as in claim 2 said heel portion having a heel counter, wherein said shoe further includes a lateral heel stabilizer conformally attached to said heel counter and extending from the proximal end of said heel counter to the distal end of said heel counter.
5. An athletic shoe as in claim 3 further including a medial heel wedge member spanning the length and width of said heel from about 2 to about 5 degrees relative to the ground with the highest point of said medial wedge member being at the medial inner heel.
6. An athletic shoes as in claim 4 said heel portion having a heel counter, wherein said shoe further includes a lateral heel stabilizer conformally attached to said

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heel counter and extending from the proximal end of said heel counter to the distal end of said heel counter.

7. An athletic shoe as in claim 5 wherein said sole has a bottom sole member, said bottom sole member including a tapered lateral forefoot member which is from about 1/8 to about 3/16 inches thick, said thickness increasing gradually from the medial portion to the lateral portion of said forefoot.

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**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Stabilizer Athletic Shoes

the specification of which (check one):

☒ Is attached hereto.

☐ was filed on \_\_\_\_\_ as Application Serial No. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

**PRIOR FOREIGN APPLICATION(S)**

Priority Claimed

(Number)	(Country)	(Day/Month/Year)	Yes	No
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09517732-071700



09617732-071700

Priority Claimed

(Number)	(Country)	(Day/Month/Year)	Yes	No
(Number)	(Country)	(Day/Month/Year)	Yes	No
(Number)	(Country)	(Day/Month/Year)	Yes	No

I hereby claim the benefit under Title 35 United States Code Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35 United States Code Section 112, I acknowledge the duty to disclose material information as defined in Title 37 Code of Federal Regulations Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.) (Filing Date) (Status) (Patented, pending, abandoned)

(Application Serial No.) (Filing Date) (Status) (Patented, pending, abandoned)

I hereby appoint James W. Badle, Registration No. 20,968, as my attorney with full power of substitution and appointment of associate attorneys, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Please address all communications to James W. Badle, Stoll, Miskin, Hoffman & Badle, Empire State Building, 350 Fifth Avenue, Suite 6110, New York, New York 10118.

Please direct all telephone calls to James W. Badle, (212) 244-5632.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor:

William G. Cummings

Inventor's signature:

X *William G. Cummings*

X Date: 7/1/00

Citizenship: U.S.A.

Residence:

336 Briarly Drive

Franklin Lakes, NJ 07417

Post office address:

same as above

Full name of sole or second inventor:

Jay G. Levine

Inventor's signature:

X *Jay G. Levine*

X Date: 7/1/00

Citizenship: U.S.A.

Residence:

5 Walnut Court

New City, New York 10956

Post office address:

same as above

09517732-071700

Applicant or Patentee: William G. Cummings and Jay G. Levine Atty Docket No. JWB-2000  
Serial or Patent No. \_\_\_\_\_  
Filed or Issued: \_\_\_\_\_  
For: Stabilizer Athletic Shoes

TO  
JWB  
09/01/00  
09/01/00  
09/01/00

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS**  
**(37 CFR 1.9(f) and 1.27(d) - INDEPENDENT INVENTOR)**

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled Stabilizer Athletic Shoes described in

- ( ☒ ) the specification filed herewith  
( ☐ ) application serial no. \_\_\_\_\_, filed \_\_\_\_\_  
( ☐ ) patent no. \_\_\_\_\_, issued \_\_\_\_\_

I have not assigned, granted, conveyed or licensed and am under no obligation under contract of law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey or license any rights in the invention is listed below:

- ( ☒ ) no such person, concern or organization  
( ☐ ) persons, concerns or organizations listed below \*


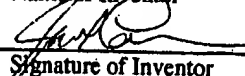
\* NOTE: separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. 37 CFR 1.27

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
( ☐ ) Individual ( ☐ ) Small Business Concern ( ☐ ) Nonprofit Organization

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
( ☐ ) Individual ( ☐ ) Small Business Concern ( ☐ ) Nonprofit Organization

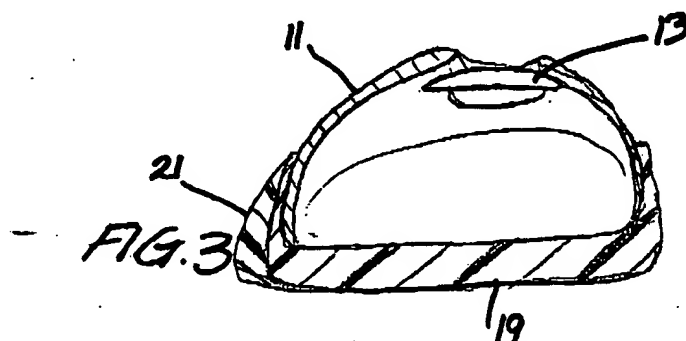
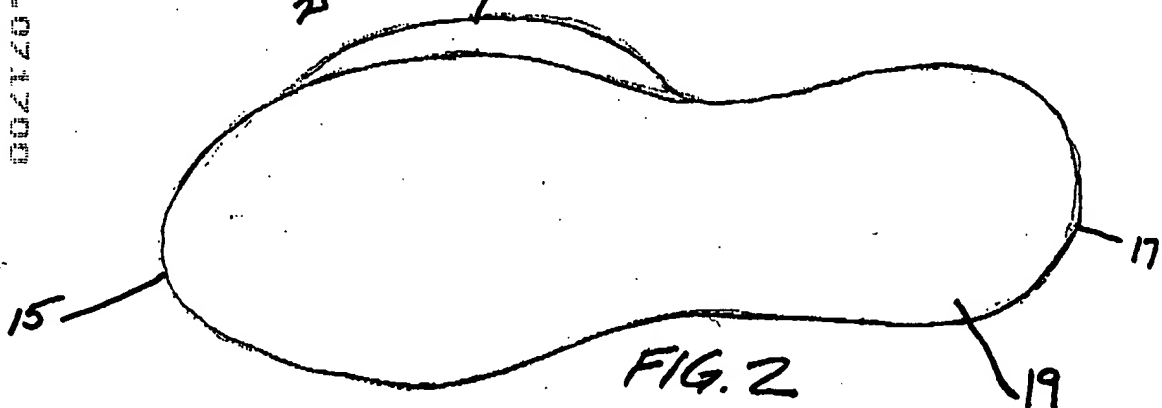
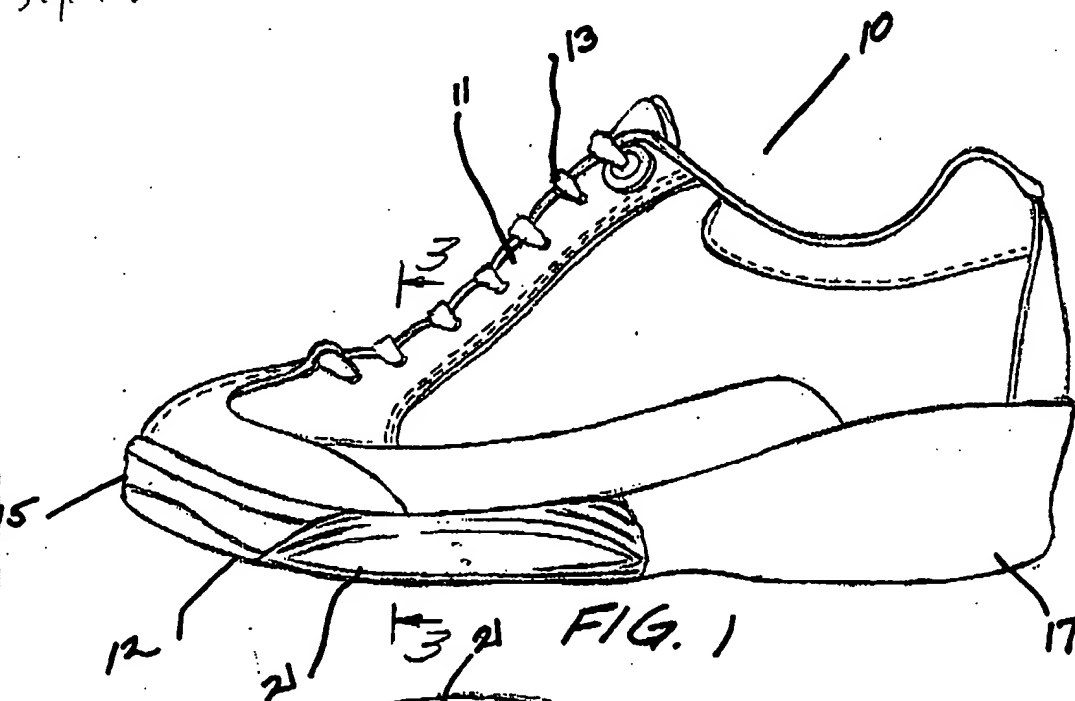
I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. 37 CFR 1.28(b).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

<u>William G. Cummings</u>	<u>Jay G. Levine</u>	
Name of Inventor	Name of Inventor	Name of Inventor
		
Signature of Inventor	Signature of Inventor	Signature of Inventor
<u>7/1/00</u>	<u>7/1/00</u>	
Date	Date	Date

36/142

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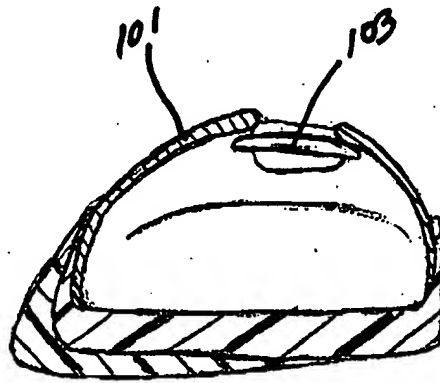


FIG. 6

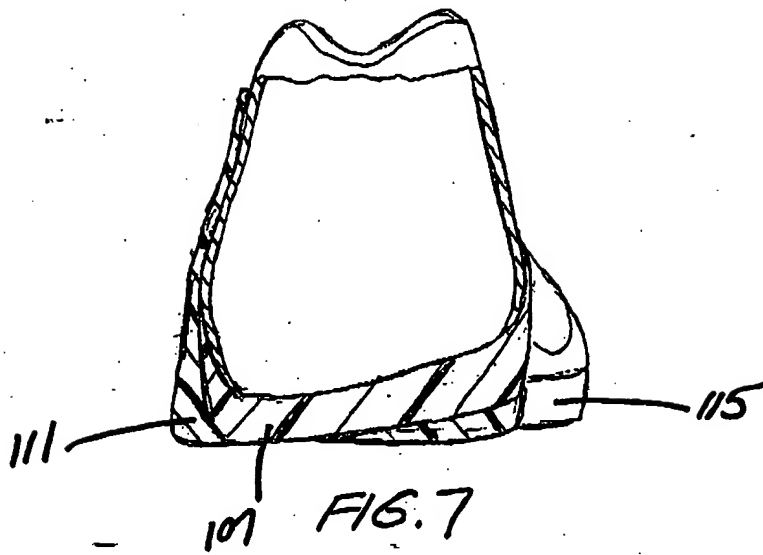


FIG. 7

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07/17/00  
1377 U.S. PTO



A

ATTORNEY DOCKET: JWB-2000-5-P

HON. COMMISSIONER OF PATENTS AND TRADEMARKS  
WASHINGTON, D.C. 20231

SIR:

Transmitted herewith for filing is the patent application of

Inventor(s): William G. Cummings and Jay G. Levine  
For: Stabilizer Athletic Shoes

- ☒ 3 Sheet(s) of informal drawings, consisting of Figures 1 - 7
- ☐ An assignment to the invention to \_\_\_\_\_
- ☐ A certified copy of a \_\_\_\_\_ application
- ☒ An associate power of attorney
- ☒ A verified statement to establish small entity status under 37 CFR 1.9 and 37 CFR 1.27
- ☐


The filing fee has been calculated as shown below:

FOR:	(Col.1)	(Col.2)	SMALL ENTITY		OTHER THAN A SMALL ENTITY	
	No. Filed	No.Extra	Rate	Fee	Rate	Fee
Basic Fee				\$345		\$690
Total Claims	7 -20	= *	x9	\$	x18	\$
Indep Claims	1 -3	= *	x39	\$	x78	\$
Multiple Dependent Claim Presented			x130	\$	x260	\$
			TOTAL	\$345	TOTAL	\$

\* If the difference in Col.1 is less than zero, enter "0" in Col.2

- ☐ Please charge me Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.  
A duplicate copy of this sheet is enclosed.
- ☒ A check in the amount of \$ 345.00 to cover the filing fee is enclosed.
- ☐ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. \_\_\_\_\_.  
A duplicate copy of this sheet is enclosed.
- ☐ Any patent application processing fees under 37 CFR 1.17.
- ☐ The issue fee set in 37 CFR 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 CFR 1.31(b).
- ☐ Any filing fees under 37 CFR 1.16 for presentation of extra claims.

Respectfully submitted,

  
James W. Badie, Reg No. 20,968  
Stoll, Miskin, Previto, Hoffman & Badie  
Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632

09/617732  
JC866 U.S. PTO

09517732-071700



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/617,732 07/17/00 CUMMINGS

W JWB-2000-5-F

GM12/0117

JAMES W BADIE  
STOLL MISKIN HOFFMAN & BADIE  
EMPIRE STATE BUILDING SUITE 6110  
350 FIFTH AVENUE  
NEW YORK NY 10118

EXAMINER

PATTERSON, M

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 01/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



**Office Action Summary**Application No.  
09/817,732

Applicant(s)

Cummings et al

Examiner  
Marie PattersonGroup Art Unit  
3728☐ Responsive to communication(s) filed on \_\_\_\_\_☐ This action is FINAL.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☒ Claim(s) 1-7 is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☒ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

Application/Control Number: 09/617732

Page 2

Art Unit: 3208

*Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no basis in the original specification for the specific thickness range of 1/8 inch - 3/16 inch for the taper of the forefoot member as claimed in claim 7.

*Claim Rejections - 35 USC § 112*

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 the phrase "lateral wedge member is confusing, vague, and indefinite because it is not clear what disclosed structure applicant is referring to. Especially since in claim 7 applicant further claims a tapered bottom sole member.

Claim 6 appears to duplicate claim 4 from which it depends rendering is confusing as to what further structural limitations applicant intends to encompass with such language.

Application/Control Number: 09/617732

Page 3

Art Unit: 3208

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Blissett (5448839).
5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Talarico, II (4620376).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noone (4866861) in view of Lyne (2179942).

Noone shows a shoe with a forefoot lateral wedge (20) and a heel counter (figure 3) with a lateral heel stabilizer (62) substantially as claimed except for tapering the forefoot lateral wedge.

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Page 4

Art Unit: 3208

Lyne teaches tapering a protruding wedge (see figure 6). It would have been obvious to taper the wedge of Noone as taught by Lyne to provide a smooth transition between the sole and the wedge.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blissett in view of Noone.

Blissett shows a shoe with a tapered forefoot member and a tapered heel wedge (see column 3 line 35- column 4 line 6) substantially as claimed except for a forefoot lateral wedge and a lateral heel stabilizer. Noone teaches providing a forefoot lateral wedge (20) and a heel stabilizer (62).

It would have been obvious to provide a forefoot lateral wedge and a lateral heel stabilizer as taught by Noone in the shoe of Blissett to make the shoe able to assist a wearer when playing golf.

In reference to claims 2 and 7, Blissett as modified above discloses the claimed invention except for the exact ranges of thicknesses as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the forefoot wedge  $1/8$ - $1/4$  inch thick or  $1/8$ - $3/16$  inch, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without

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Art Unit: 3208


contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 **Customer Service Center** number is (703)306-5648.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3580. Please identify Examiner \_\_\_\_ of Art Unit \_\_\_\_ at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Valerie Douglas at (703)308-1337.

Check out our web-site at "[www.uspto.gov](http://www.uspto.gov)" for fees and other useful information.

  
Marie Patterson  
Primary Examiner  
Art Unit 3728

MDP  
January 11, 2001

<b>Notice of References Cited</b>		Application No. <b>09/617,732</b>		Applicant <b>Cummings et al</b>	
		Examiner <b>Marie Patterson</b>		Group Art Unit <b>3728</b>	
Page 1 of 1					

U.S. PATENT DOCUMENTS					
	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS
A	4,866,861	9-1989	Noone	36	127
B	2,179,942	11-1939	Lyne	36	127
C	5,448,839	9-1995	Blissett et al	36	25R
D	5,345,701	9-1994	Smith	36	144
E	4,620,376	11-1986	Talarico, II	36	103
F	2,847,769	8-1958	Schlesinger	36	127
G	4,685,227	8-1987	Simmons	36	127
H	2,616,190	11-1952	Darby	36	144
I	4,748,753	6-1988	Ju	36	127
J					
K					
L					
M					

FOREIGN PATENT DOCUMENTS						
	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
N						
O						
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Q						
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S						
T						

NON-PATENT DOCUMENTS	
DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
U	
V	
W	
X	

**ATTACHMENT TO AND MODIFICATION OF**  
**NOTICE OF ALLOWABILITY (PTO-37)**

*(November, 2000)*

**NO EXTENSIONS OF TIME ARE PERMITTED TO FILE CORRECTED OR FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION**, notwithstanding any indication to the contrary in the attached Notice of Allowability (PTO-37).

If the following language appears on the attached Notice of Allowability, the portion lined through below is of no force and effect and is to be ignored<sup>1</sup>:

~~A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).~~

Similar language appearing in any attachments to the Notice of Allowability, such as in an Examiner's Amendment/Comment or in a Notice of Draftperson's Patent Drawing Review, PTO-948, is also to be ignored.

<sup>1</sup> The language which is crossed out is contrary to amended 37 CFR 1.85(c) and 1.136. See "Changes to Implement the Patent Business Goals", 65 Fed. Reg. 54603, 54629, 54641, 54670, 54674 (September 8, 2000), 1238 Off. Gaz. Pat. Office 77, 99, 110, 135, 139 (September 19, 2000).



Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : William G. Cummings et al.  
Serial No. : 09/617,732  
Filed : July 17, 2000  
For : Stabilizer Athletic Shoes  
Art Unit : 3728  
Examiner : Marie Patterson

**RECEIVED**

MAY 24 2001

TECHNOLOGY CENTER R3700

**PETITION FOR ONE MONTH EXTENSION OF TIME**


Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SIR:

It is respectfully requested that the time for response to the outstanding Office Action be extended one month from January 17, 2001 to expire May 17, 2001.

A check in the amount of \$55.00 is enclosed to cover the fee for this petition.

Respectfully submitted,

  
James W. Badie, Reg. No. 20,968  
Attorney for Applicants  
Stoll, Miskin, Hoffman & Badie  
The Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632

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55.00 GP

# 9P3728

V. Douglas  
#3/Ext. of  
Time  
5/25/01  
(1mos.)



**CERTIFICATE OF MAILING**  
**UNDER 37 C.F.R. 1.8(a)**

It is hereby certified that the within Petition For One Month Extension of Time and check for \$55.00 are being deposited with the United States Postal Service in a postage prepaid envelope, first-class mail, addressed to Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 17 day of May, 2001.

Nancy Soto  
Nancy Soto



V. Douglas  
#4/a  
5/25/01

Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : William G. Cummings et al.  
Serial No. : 09/617,732  
Filed : July 17, 2000  
For : Stabilizer Athletic Shoes  
Art Unit : 3728  
Examiner : Marie Patterson

**AMENDMENT**

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**RECEIVED**

MAY 24 2001

TECHNOLOGY CENTER R3700

SIR:

In response to the Office Action dated January 17, 2001 ("Action"), kindly amend the above-referenced application as set forth below.

**In the Claims**

Cancel claims 1-7, inclusive, without prejudice, and add the following claims 8 - 11:

a1  
8. A stabilizer athletic shoe comprising a sole having a forefoot portion, a rearfoot portion and a heel portion comprising a heel counter, said forefoot portion having a medial part, a lateral part, and a lateral wedge member tapered from said medial part to the middle of said lateral part, and said heel portion including a lateral heel stabilizer conformally attached to said heel counter and extending from the proximal end of said heel stabilizer to the distal end of said heel stabilizer.

a1

9. A stabilizer athletic shoe as in the claim 8 wherein said wedge member is from about 1/8 to about 1/4 inch thick, with said thickness increasing gradually from said medial part to said lateral part of said forefoot portion.

10. A stabilizer athletic shoe as in claim 8 further including a medial heel wedge member spanning the length and width of said heel from about 2 to about 5 degrees relative to the ground with the highest point of said medial wedge member being at the medial inner heel.

11. A stabilizer athletic shoe as in claim 9 further including a medial heel wedge member spanning the length and width of said heel from about 2 to about 5 degrees relative to the ground with the highest point of said medial wedge member being at the medial inner heel.

#### REMARKS

Claims 1-7, which are all the claims in this application as filed, have been cancelled by this amendment, without prejudice, and new claims 8-11 have been added which clearly distinguish over the applied references. Reconsideration of the action is requested in view of the present amendment and the following discussion.

Briefly, the present invention relates to an athletic shoe having unique lateral forefoot and heel stabilizer designed to increase proprioception of an athletic when engaged in an active moving sport, i.e., sports such as running, jogging, basketball and tennis, as compared to golf shoes which are designed to for different type of stability. By incorporating a lateral foot stabilizer and heel stabilizer, the width of the athletic shoe is effectively increased by about 1/4 to

about  $\frac{1}{4}$  inch and the width of the lateral heel is also increased by about  $\frac{1}{4}$  to about  $\frac{3}{4}$  inch. Consequently, the ground-to-shoe contact area is increased at the forefoot and at the heel.

Newly added independent claim 8 is not anticipated by, nor is it obvious from the disclosure of the applied references.

United States Patent No. 5,448,839 (Blissett et al.) describes a shoe for persons who experience prolonged periods of standing. The Blissett et al. patent does not disclose or show a forefoot portion with a lateral wedge member, and does not have a lateral heel stabilizer attached to a heel counter as defined by applicants' claimed invention.

United States Patent No. 4,620,376 (Talarico II) also fails to disclose or describe a shoe having the aforementioned features of applicants' claimed stabilizer athletic shoe. This reference discloses a heel lift, which is not used in applicants' shoe due to possible increase in injury and metatarsal pain which are experienced when such a heel lift is used.

United States Patent No. 4,866,861 (Noone) relates to a golf shoe which is not the type of shoe with which applicants' athletic shoes are concerned. In Noone, the instep support is firmly attached to the sole. This reference does not disclose using a lateral tapered wedge member, nor does this reference disclose or require the use of a heel portion having a lateral heel stabilizer. The heel support 62 shown in Figure 1 of Noone is not a lateral heel stabilizer extending from the proximal end of the heel stabilizer to its distal end. Additionally, Noone does not provide for increased width and dynamic stability as in applicants' shoe structure.


United States Patent No. 2,179,942 relates to golf shoe attachment that "will increase the stability of an inexperienced player and/or that will increase the accuracy of his or her shot". Column 1, lines 27-29. In Lynn's golf shoe studs or spikes are added to the medial aspect of the shoe. This reference does not disclose or show the unique features of applicants' stabilizer athletic shoe as defined by the amended claim.

In view of the foregoing amendment and discussion, it is believed unnecessary to discuss In re Allen, 105 USPQ 233, which has been cited by the examiner. Suffice it to say for now that this case is not applicable to the amended claims, nor was it intended to apply to the present type of distinction.

In sum, the aforementioned references, singly or in combination, do not disclose or suggest applicants' features of the stabilizer athletic shoe now recited in new claims 8-11.

It is believed that the additional claims presented by this amendment do not require payment of additional fee since the total number of independent claims are 2 and the total number of claims is 11, both lower than the number of the respective claims permitted under 37 C.F.R. 1.16(b) and (c).

Respectfully submitted,

  
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Attorney for Applicants  
Stoll, Miskin, Hoffman & Badie  
The Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632

**CERTIFICATE OF MAILING**  
**UNDER 37 C.F.R. 1.8(a)**

It is hereby certified that the within Amendment is being deposited with the United States Postal Service in a postage prepaid envelope, first-class mail, addressed to Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 17<sup>th</sup> day of May, 2001.

Nancy Soto  
Nancy Soto



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/617,732 07/17/00 CUMMINGS

W JWB-2000-5-P

QM22/0622

JAMES W BADIE  
STOLL MISKIN HOFFMAN & BADIE  
EMPIRE STATE BUILDING SUITE 6110  
350 FIFTH AVENUE  
NEW YORK NY 10119

EXAMINER

PATTERSON, M

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

06/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**Application No.  
09/817,732Applicant(s)  
Cummings et alExaminer  
Marie PattersonArt Unit  
3728

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on May 21, 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 16) ☐ Notice of References Cited (PTO-892)                      18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)                      19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_                      20) ☐ Other: \_\_\_\_\_



Art Unit: 3208

*Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the heel member spanning the length and width of said heel as claimed in claims 10 and 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

*Specification*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

- (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
- (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
- (c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

Art Unit: 3208

The specification is objected to under 37 CFR 1.71 because it fails to provide an adequate written description of the invention and fails to adequately teach how to make and/or use the invention, i.e. fails to provide an enabling disclosure.

In the specification reference is made to element 21 in figure 1 as a forefoot wedge member, however later in the specification reference is made to element 117 shown in figure 5 as the forefoot wedge. Element 21 of figure 1 appears to be similar to the forefoot stabilizer, element 111 shown in figure 4. This is confusing, and it is not clear what limitations applicant intends to encompass with the use of such terms. Applicant is reminded that terminology should remain consistent throughout the specification and the claims.

On page 4 of the specification applicant states that "The lateral forefoot wedge 21 is ....tapered from medial to lateral from the middle of the forefoot", and in the drawings element 21 does not extend from the middle of the forefoot, it appears to be located only at the edge of the sole (specifically in figures 2 and 3). It also is not shown to be tapered from medial to lateral.

In the specification there is reference to a heel counter, however no such element is shown in the drawings. The only similar element to what is conventionally known as a heel counter is the back piece shown in figure 1 and the element which appears to be the same possibly shown at the rear of the shoe in figure 4. However in the specification applicant recites that the heel stabilizer (113) is "conformably attached to the lateral heel counter and encompasses substantially the entire heel counter from the distal end 113A to the proximal end 113B" (page 6). This is confusing since if one assumes the element shown at the rear of the shoe is the heel counter then the

Art Unit: 3208

stabilizer shown in figure 4 extends forward of the distal end of heel counter and definitely does not encompass the entire heel counter from the proximal end of the heel counter to the distal end.

In the specification on page 6 applicant states that "the wedge 115 spans the entire length and width of the heel", however as shown in figures 5 and 7 this does not appear to be true., the wedge appears to only span about  $\frac{1}{2}$  of the width of the heel.

*Claim Rejections - 35 USC § 112*

3. Claims 8-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See above.

4. Claims 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8 the phrases "conformally attached" and "a lateral heel stabilizer....extending from the proximal end of said heel stabilizer to the distal end of said heel stabilizer" are confusing, vague, and indefinite.

Claims 10 and 11 are confusing, vague, and indefinite because it is not clear in view of the discrepancies in the drawings and specification what structural limitations applicant intends to encompass with such language.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noone (4866861) in view of Lyne (2179942).

Noone shows a shoe with a forefoot lateral wedge (20) and a heel counter (figure 3) with a lateral heel stabilizer (62) substantially as claimed except for tapering the forefoot lateral wedge. Lyne teaches tapering a protruding wedge (see figure 6). It would have been obvious to taper the wedge of Noone as taught by Lyne to provide a smooth transition between the sole and the wedge.

Noone as modified above discloses the claimed invention except for the exact thickness of the wedge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the wedge with a thickness of between 1/8 to 1/4 inch, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blissett in view of Noone.

Art Unit: 3208

Blissett shows a shoe with a tapered forefoot wedge and a tapered heel wedge (see column 3 line 35- column 4 line 6) substantially as claimed except for a lateral heel stabilizer. Noone teaches providing a lateral heel stabilizer (62). It would have been obvious to provide a lateral heel stabilizer as taught by Noone in the shoe of Blissett to make the shoe able to assist a wearer when playing golf.

In reference to claim 9, Blissett as modified above discloses the claimed invention except for the exact ranges of thicknesses as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the forefoot wedge 1/8-1/4 inch thick, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

#### ***Response to Arguments***

8. Applicant's arguments filed 5/21/01 have been fully considered but they are not persuasive.

In response to Applicant's piecemeal analysis of the references, it has been held that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. *In re Keller*, 208 USPQ 871 (CCPA 1981).

In response to applicants' arguments directed towards the intended use of the shoe, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be

Application/Control Number: 09/617732

Page 7

Art Unit: 3208

employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

In response to applicants' arguments directed towards the shape and location of a "heel stabilizer", Noone teaches and shows a heel stabilizer (62) attached to a heel counter (shown in the drawings) inasmuch as applicant has disclosed and shown such.


9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703)306-5648.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3580. Please identify Examiner \_\_\_\_ of Art Unit \_\_\_\_ at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Valerie Douglas at (703)308-1337.

Check out our web-site at "[www.uspto.gov](http://www.uspto.gov)" for fees and other useful information.

  
Marie Patterson  
Primary Examiner  
Art Unit 3728

MDP  
June 21, 2001

**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/617732

EXAMINER
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ART UNIT	PAPER NUMBER
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6

DATE MAILED:

#### INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Marie Patterson (3) \_\_\_\_\_  
(2) James Badie (4) \_\_\_\_\_

Date of Interview 4/16/01

Type: ☐ Telephonic ☒ Personal (copy is given to ☐ applicant ☒ applicant's representative).

Exhibit shown or demonstration conducted: ☒ Yes ☐ No If yes, brief description: A shoe with the  
sterilizing elements thereon was shown.

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: All of record

Identification of prior art discussed: All of record

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Further  
definition of the forward wedge and heel guard  
appears to overcome the current rejection subject to  
further search and/or considerations

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign this form unless it is an attachment to another form.

FORM PTOL-413 (REV. 1-95)

M.D. Patterson  
M.D. Patterson  
Primary Examiner





Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : William G. Cummings et al.  
Serial No. : 09/617,732  
Filed : July 17, 2000  
For : Stabilizer Athletic Shoes  
Art Unit : 3728  
Examiner : Marie Patterson

COPY OF PAPERS  
ORIGINALY FILED

**PETITION FOR TWO MONTHS EXTENSION OF TIME**

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SIR:

It is respectfully requested that the time for response to the outstanding Office  
Action be extended two months from June 22, 2001 to expire November 22, 2001.


A check in the amount of \$200.00 is enclosed to cover the fee for this petition.

Respectfully submitted,

01/28/2002 MGEEREM1 00000084 09617732

01 FC:216

200.00 DP

  
James W. Badie, Reg. No. 20,968  
Attorney for Applicants  
Stoll, Miskin, Hoffman & Badie  
The Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632



**CERTIFICATE OF MAILING**  
**UNDER 37 C.F.R. 1.8(a)**

It is hereby certified that the within Petition For Two Months Extension of Time and check for \$200.00 are being deposited with the United States Postal Service in a postage prepaid envelope, first-class mail, addressed to Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 14<sup>th</sup> day of November, 2001.

*Nancy Soto*  
\_\_\_\_\_  
Nancy Soto

EXAMINER: MARIE PATTERSON  
ART UNIT: 3728



Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the  
United States Patent and Trademark Office

on November 19, 2001  
Date

Nancy Soto  
Signature  
Nancy Soto  
Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify  
each submitted paper.



Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : William G. Cummings et al.  
Serial No. : 09/817,732  
Filed : July 17, 2000  
For : Stabilizer Athletic Shoes  
Art Unit : 3728  
Examiner : Marie Patterson

8/B  
(21)  
Z. C. H.  
8/27/02

**AMENDMENT**

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SIR:

In response to the Office Action dated June 22, 2001, please amend the  
above-referenced application as follows:

**In the Specification**

Page 4, lines 17, 20, 23 and 27, each occurrence, after "lateral" delete  
"wedge member" and replace it with -- stabilizer --.

Page 4, line 23, after "is" change "tapered from medial to lateral from the  
middle of the forefoot" to -- attached to the edge of the sole --.

Page 6, line 3, after "is" delete -- conformably --.

(21)

Also on page 6, line 4, after "attached to" delete "the lateral heel counter and encompasses substantially the entire heel counter from the distal end 113A to the proximal end 113B", and replace the cancelled portion with the following:

-- the rear exterior of the shoe above the heel 107 extending from the proximal end 113B to the distal end 113A near the top of the shoe --.

Page 6, line 12, after "and" and before "with" insert -- approximately  $\frac{1}{2}$  of the --.

In the Claims

Please cancel claims 8-11, inclusive, without prejudice, and add the following claims 12-19:

12. A stabilizer athletic shoe comprising a sole having a bottom portion, a forefoot portion, a rearfoot portion, an edge and a heel portion, said forefoot portion having a medial part and a lateral part, an external lateral foot stabilizer attached to the edge of said sole, and a bottom forefoot wedge member attached to the bottom of said sole.

13. A stabilizer athletic shoe as in claim 12 further including a medial heel wedge spanning substantially the entire length, and about one-half the width of said heel, and a lateral heel stabilizer extending from the bottom of said heel to the top of the rearfoot portion.

14. A stabilizer athletic shoe as in claim 12 wherein said external lateral foot stabilizer is from about  $\frac{1}{8}$  inch to about  $\frac{1}{4}$  inch thick, with the thickness increasing from said medial part to said lateral part of said forefoot portion.

1-10  
Q 2

15. A stabilizer athletic shoe as in claim 13 wherein said external lateral foot stabilizer is from about  $\frac{1}{8}$  inch to about  $\frac{1}{4}$  inch thick, with the thickness increasing from said medial part to said lateral part of said forefoot portion.

16. A stabilizer athletic shoe as in claim 12 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

1-11  
Q 3

17. A stabilizer athletic shoe as in claim 13 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

18. A stabilizer athletic shoe as in claim 14 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

1-12  
Q 4

19. A stabilizer athletic shoe as in claim 15 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

#### REMARKS

First, applicants' attorney wishes to acknowledge with thanks the courteous interview accorded him on November 16, 2001. During the interview, applicants' attorney indicated that the specification will be amended in order to comply with the Examiner's requirement. Accordingly, the specification has been amended in a manner which overcomes the Examiner's objections, consistent with what is shown in the drawings, without introducing new matter.

The claims of the application were also discussed in view of the prior art of record and, it was concluded, as set forth in the "Interview Summary" that amendment of the claims as discussed at the interview overcomes the current rejection. Accordingly, the claims have now been amended by canceling the present claims and adding new claims, i.e., claims 12-19. The added claims

emphasize the features of the shoe which distinguish this shoe from the shoes disclosed in the prior art, particularly with respect to the following features:

1. the provision of external lateral foot stabilizer and a bottom forefoot wedge which can partly overlap each other, and
2. the provision of a lateral heel stabilizer and a medial heel wedge.

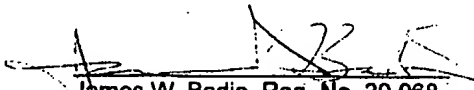
None of the cited prior art disclose or suggest the provision of these features in an athletic shoe.

It is requested that requirement, if any, relating to amendment of the drawings be held in abeyance pending allowance of the application.

It is believed that no additional fee is required for the additional claims presented herein since the total number of independent claims filed originally and by subsequent amendments does not exceed three (3) and the total number of claims presented for consideration is less than twenty (20).

In view of the foregoing amendment and remarks, a favorable action is requested.

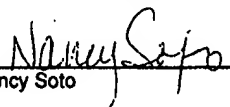
Respectfully submitted,

  
James W. Badie, Reg. No. 20,968  
Attorney for Applicants  
Stoll, Miskin, Hoffman & Badie  
The Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632



**CERTIFICATE OF MAILING**  
**UNDER 37 C.F.R. 1.8(a)**

It is hereby certified that the within Amendment is being deposited with the United States Postal Service in a postage prepaid envelope, first-class mail, addressed to Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 19<sup>th</sup> day of November, 2001.

  
\_\_\_\_\_  
Nancy Soto



EXAMINER: MARIE PATTERSON  
ART UNIT: 3728

PTO/SB/97 (08-00)  
Approved for use through 10/31/2002. OMB 0651-0031  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-5-P	7849

7390 02/25/2002  
James W Badie  
Stoll Miskin Hoffman & Badie  
Empire State Building Suite 6110  
350 Fifth Avenue  
New York, NY 10118

EXAMINER

PATTERSON, MARIE D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 02/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
www.uspto.gov

Paper No.

**Notice of Non-Compliant Amendment (37 CFR 1.121)**

The amendment filed on 1/24/02 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on September 8, 2000 (see 65 Fed. Reg. 54603, Sept. 8, 2000, and 1238 O.G. 77, Sept. 19, 2000). In order for the amendment to be compliant, applicant must supply the following omissions or corrections in response to this notice.

**THE FOLLOWING ITEMS ARE REQUIRED FOR COMPLIANCE WITH RULE 1.121 (APPLICANT NEED NOT RE-SUBMIT THE ENTIRE AMENDMENT):**

- G 1. A clean version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(ii).
- G 2. A marked-up version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(iii).
- G 3. A clean version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(i).
- G 4. A marked-up version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(ii).

Explanation: See number 1 + 2

(LIE: Please provide specific details for correction to assist the applicant. For example, A the clean version of claim 6 is missing.0)

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP ' 714 and the USPTO website at <http://www.uspto.gov/web/offices/dcom/olia/pbg/sampleaf.pdf>. A condensed version of a sample amendment format is attached.

- G **PRELIMINARY AMENDMENT:** Unless applicant supplies the omission or correction to the preliminary amendment in compliance with revised 37 CFR 1.121 noted above within ONE MONTH of the mail date of this letter, examination on the merits may commence without entry of the originally proposed preliminary amendment. This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.
- G **AMENDMENT AFTER NON-FINAL ACTION:** Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of ONE MONTH or THIRTY DAYS from the mailing of this notice, whichever is longer, within which to supply the omission or correction noted above in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

E. Carter  
Legal Instruments Examiner (LIE)



COPIES OF PATENT  
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Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of	:	William G. Cummings et al.
Serial No.	:	09/617,732 ✓
Filed	:	July 17, 2000
For	:	Stabilizer Athletic Shoes
Art Unit	:	3728
Examiner	:	Marie Patterson

**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT**

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SIR:

In response to the Notice Of Non-Compliant Amendment (37 CFR 1.121),  
applicant submits herewith a clean version of the paragraphs in the Specification  
as set forth below:

3728 10/1  
Lee  
OK  
E. Cummings  
4/29/02  
(N)  
(2)

**Version with markings to show changes**

**Specification, page 4, fifth paragraph, lines 9-12**

For the purposes of this invention, in the embodiment shown in Figures 1-3, the shoe is provided with an external lateral forefoot [wedge member] stabilizer 21 which is formed as an integral part of the shoe conformally contouring the lateral forefoot portion of the shoe.

**Specification, page 4, fifth paragraph, lines 12-15**

The lateral forefoot [wedge] stabilizer 21 is preferably about 1/8 to about 1/4 inch thick and is [tapered from medial to lateral from the middle of the forefoot] attached to the edge of the sole, with its thickness increasing gradually toward the lateral side where it is at its greatest thickness.

**Specification, page 4, fifth paragraph, lines 15-17**

The lateral forefoot [wedge] stabilizer 21 extends a distance of from about 2 to about 4 inches, from the middle toward the toe portion 15, thus extending from the 5<sup>th</sup> toe proximal to the 5<sup>th</sup> metatarsal base.

**Specification, page 4, fifth paragraph, lines 17-18**

The lateral forefoot [wedge] stabilizer 21 may be made of the same material used in forming the shoes, generally hard rubber, neoprene or a plastic

**Version with markings to show changes**

**Specification, page 6, first paragraph, lines 3-8**

The lateral heel stabilizer 113 is [conformably] attached to [the lateral heel counter and encompasses substantially the entire heel counter from the distal end 113A to the proximal end 113B] the rear exterior of the shoe above the heel 107 extending from the proximal end 113B to the distal end 113A near the top of the shoe, thus adding firm support to the lateral heel and reducing lateral ankle sprains experienced in sports such as basketball and tennis.

**Specification, page 6, second paragraph, lines 3-5**

As shown in Figure 5, the wedge 115 spans the entire length and approximately ½ of the width of the heel with the highest part of the wedge being at the medial inner heel.

**Clean Version of Specification**

**Page 4, fifth paragraph, lines 9-12**

For the purposes of this invention, in the embodiment shown in Figures 1-3, the shoe is provided with an external lateral forefoot stabilizer 21 which is formed as an integral part of the shoe conformally contouring the lateral forefoot portion of the shoe.

**Page 4, fifth paragraph, lines 12-15**

The lateral forefoot stabilizer 21 is preferably about 1/8 to about 1/4 inch thick and is attached to the edge of the sole, with its thickness increasing gradually toward the lateral side where it is at its greatest thickness.

**Page 4, fifth paragraph, lines 15-17**

The lateral forefoot stabilizer 21 extends a distance of from about 2 to about 4 inches, from the middle toward the toe portion 15, thus extending from the 5<sup>th</sup> toe proximal to the 5<sup>th</sup> metatarsal base.

**Page 4, fifth paragraph, lines 17-18**

The lateral forefoot stabilizer 21 may be made of the same material used in forming the shoes, generally hard rubber, neoprene or a plastic

**Clean version of Specification**

**Page 6, first paragraph, lines 3-8**

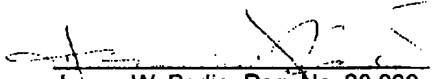
The lateral heel stabilizer 113 is attached to the rear exterior of the shoe above the heel 107 extending from the proximal end 113B to the distal end 113A near the top of the shoe, thus adding firm support to the lateral heel and reducing lateral ankle sprains experienced in sports such as basketball and tennis.

**Page 6, second paragraph, lines 3-5**

As shown in Figure 5, the wedge 115 spans the entire length and approximately  $\frac{1}{2}$  of the width of the heel with the highest part of the wedge being at the medial inner heel.

In view of the foregoing Response, a favorable action is requested on this application.

Respectfully submitted,

  
James W. Badie, Reg. No. 20,968  
Attorney for Applicants  
Stoll, Miskin, Hoffman & Badie  
The Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632





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PTO/SB92 (08-00)

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Washington, D.C. 20231

on March 7 2002  
Date

Nancy S. [Signature]  
Signature

Nancy S. [Signature]  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-3-P	7849

7590 05/02/2002

James W Badie  
Stoll Miskin Hoffman & Badie  
Empire State Building Suite 6110  
350 Fifth Avenue  
New York, NY 10118

EXAMINER

PATTERSON, MARIE D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 05/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
www.uspto.gov

Paper No.

**Notice of Non-Compliant Amendment (37 CFR 1.121)**

The amendment filed on \_\_\_\_\_ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on September 8, 2000 (see 65 Fed. Reg. 54603, Sept. 8, 2000, and 1238 O.G. 77, Sept. 19, 2000). In order for the amendment to be compliant, applicant must supply the following omissions or corrections in response to this notice.

**THE FOLLOWING ITEMS ARE REQUIRED FOR COMPLIANCE WITH RULE 1.121 (APPLICANT NEED NOT RE-SUBMIT THE ENTIRE AMENDMENT):**

- G 1. A clean version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(ii).
- G 2. A marked-up version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(iii).
- G 3. A clean version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(i).
- G 4. A marked-up version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(ii).

Explanation: The whole paragraph has to be rewritten.

(LIE: Please provide specific details for correction to assist the applicant. For example, the clean version of claim 6 is missing. 8)

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP ' 714 and the USPTO website at <http://www.uspto.gov/web/offices/dcom/olia/pbg/sampleaf.pdf>. A condensed version of a sample amendment format is attached.

- G **PRELIMINARY AMENDMENT:** Unless applicant supplies the omission or correction to the preliminary amendment in compliance with revised 37 CFR 1.121 noted above within ONE MONTH of the mail date of this letter, examination on the merits may commence without entry of the originally proposed preliminary amendment. This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.
- G **AMENDMENT AFTER NON-FINAL ACTION:** Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of ONE MONTH or THIRTY DAYS from the mailing of this notice, whichever is longer, within which to supply the omission or correction noted above in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

E. parfm  
Legal Instruments Examiner (LIE)

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Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of	:	William G. Cummings et al.
Serial No.	:	09/617,732
Filed	:	July 17, 2000
For	:	Stabilizer Athletic Shoes
Art Unit	:	3728
Examiner	:	Marie Patterson

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**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT**

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SIR:

In response to the Notice Of Non-Compliant Amendment (37 CFR 1.121)  
dated May 2, 2002, applicants submit herewith a clean version of the  
replacement paragraphs in the Specification as set forth below:

D

**In the Specification:**

Please replace the paragraph beginning at page 4, line 10, with the following rewritten paragraph:

D

— Referring to Figures 1-3, there is shown, in Figure 1, a sport shoe 10 having a flexible top portion 11 mounted on top of the shoe sole 12 and is tied around the top portion 11 by the shoe lace 13. The sole 12 extends from the toe portion 15 to the heel portion 17 which may be rigid or semi-rigid in construction. The bottom or outsole 19 (see Figure 2) may be ribbed, grooved or patterned as desired. For the purposes of use in some sports, the heel may be cushioned, or rendered resilient and capable of absorbent shocks upon impact by including air ducts, air pellets or spring means between the heel and the sole. Such constructions are well known in the prior art. For the purposes of this invention, in the embodiment shown in Figures 1-3, the shoe is provided with an external lateral forefoot stabilizer 21 which is formed as an integral part of the shoe conformally contouring the lateral forefoot portion of the shoe. The lateral forefoot stabilizer 21 is preferably about 1/8 to about 1/4 inch thick and is attached to the edge of the sole, with its thickness increasing gradually toward the lateral side where it is at its greatest thickness. The lateral forefoot stabilizer 21 extends a distance of from about 2 to about 4 inches, from the middle toward the toe portion 15, thus extending from the 5<sup>th</sup> toe proximal to the 5<sup>th</sup> metatarsal base. The lateral forefoot stabilizer 21 may be made of the same material used in forming the shoes, generally hard rubber, neoprene or a plastic —

2/10

**In the Specification:**

Please replace the paragraph beginning at page 6, line 1, with the following rewritten paragraph:

D<sup>2</sup> — The lateral heel stabilizer 113 is a piece of rubber or plastic (EVA) which is about 2 to 3 inches wide, about 2-3 inches high (depending on the height of the shoe) and is about 1/8 to 1/4 inch thick. The lateral heel stabilizer 113 is attached to the rear exterior of the shoe above the heel 107 extending from the proximal end 113B to the distal end 113A near the top of the shoe, thus adding firm support to the lateral heel and reducing lateral ankle sprains experienced in sports such as basketball and tennis. It also provides added stability and push-off power in such activity as weight lifting. --

In the Specification:

Please replace the paragraph beginning at page 6, line 9, with the following rewritten paragraph:

3  
1) — The athletic shoe 100 also comprises a medial heel wedge 115, which may be ribbed, grooved or patterned as desired, and it is incorporated into the heel structure and/or affixed thereto at about 2 to 5 degrees relative to the ground. As shown in Figure 5, the wedge 115 spans the entire length and approximately  $\frac{1}{2}$  of the width of the heel with the highest part of the wedge being at the medial inner heel. Thus, the rear of the athletic shoe will have a mild tilt outward, i.e., away from the body. The incorporation of the medial heel wedge in the athletic shoe as aforesaid limits the pronation and inversion of the foot as the heel strikes the ground. It is a matter of common experience that most overuse syndrome, including plantar fasciitis, posterior tibial medial tendonitis, knee and lower back pain are due to, or exacerbated by over pronation or an exaggerated inward rolling of the foot. By providing a medial heel wedge as herein described, pronation will be effectively reduced, foot and leg fatigue will be alleviated and foot stability is increased, all of which contribute to dynamic stability during athletic performance. —

4 1/2

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Specification:**

Paragraph beginning at page 4, line 10, has been amended as follows:

Referring to Figures 1-3, there is shown, in Figure 1, a sport shoe 10 having a flexible top portion 11 mounted on top of the shoe sole 12 and is tied around the top portion 11 by the shoe lace 13. The sole 12 extends from the toe portion 15 to the heel portion 17 which may be rigid or semi-rigid in construction. The bottom or outsole 19 (see Figure 2) may be ribbed, grooved or patterned as desired. For the purposes of use in some sports, the heel may be cushioned, or rendered resilient and capable of absorbent shocks upon impact by including air ducts, air pellets or spring means between the heel and the sole. Such constructions are well known in the prior art. For the purposes of this invention, in the embodiment shown in Figures 1-3, the shoe is provided with an external lateral forefoot [wedge member] stabilizer 21 which is formed as an integral part of the shoe conformally contouring the lateral forefoot portion of the shoe. The lateral forefoot [wedge] stabilizer 21 is preferably about 1/8 to about 1/4 inch thick and is [tapered from medial to lateral from the middle of the forefoot] attached to the edge of the sole, with its thickness increasing gradually toward the lateral side where it is at its greatest thickness. The lateral forefoot [wedge] stabilizer 21 extends a distance of from about 2 to about 4 inches, from the middle toward the toe portion 15, thus extending from the 5<sup>th</sup> toe proximal to the 5<sup>th</sup> metatarsal base. The lateral forefoot [wedge] stabilizer 21 may be made of the same material used in forming the shoes, generally hard rubber, neoprene or a plastic



**In the Specification:**

Paragraph beginning at page 6, line 1, has been amended as follows:

The lateral heel stabilizer 113 is a piece of rubber or plastic (EVA) which is about 2 to 3 inches wide, about 2-3 inches high (depending on the height of the shoe) and is about 1/8 to 1/4 inch thick. The lateral heel stabilizer 113 is [conformably] attached to [the lateral heel counter and encompasses substantially the entire heel counter from the distal end 113A to the proximal end 113B] the rear exterior of the shoe above the heel 107 extending from the proximal end 113B to the distal end 113A near the top of the shoe, thus adding firm support to the lateral heel and reducing lateral ankle sprains experienced in sports such as basketball and tennis. It also provides added stability and push-off power in such activity as weight lifting.

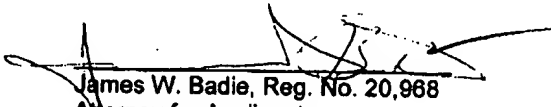
**In the Specification:**

Paragraph beginning at page 6, line 9, has been amended as follows:

The athletic shoe 100 also comprises a medial heel wedge 115, which may be ribbed, grooved or patterned as desired, and it is incorporated into the heel structure and/or affixed thereto at about 2 to 5 degrees relative to the ground. As shown in Figure 5, the wedge 115 spans the entire length and approximately 1/4 of the width of the heel with the highest part of the wedge being at the medial inner heel. Thus, the rear of the athletic shoe will have a mild tilt outward, i.e., away from the body. The incorporation of the medial heel wedge in the athletic shoe as aforesaid limits the pronation and inversion of the foot as the heel strikes the ground. It is a matter of common experience that most overuse syndrome, including plantar fasciitis, posterior tibial medial tendonitis, knee and lower back pain are due to, or exacerbated by over pronation or an exaggerated inward rolling of the foot. By providing a medial heel wedge as herein described, pronation will be effectively reduced, foot and leg fatigue will be alleviated and foot stability is increased, all of which contribute to dynamic stability during athletic performance.

In view of the foregoing Response, a favorable action is requested on this application.

Respectfully submitted,



James W. Badie, Reg. No. 20,968  
Attorney for Applicants  
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Washington, D.C. 20231**

on May 8, 2002  
Date

Nancy Soto  
Signature

Nancy Soto  
Typed or printed name of person of signing Certificate

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Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-S-P	7849

7590 07/01/2002  
James W Badie  
Stoll Miskin Hoffman & Badie  
Empire State Building Suite 6110  
350 Fifth Avenue  
New York, NY 10118

EXAMINER

PATTERSON, MARIE D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 07/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/617,732

Applicant(s)

CUMMINGS ET AL

Examiner

Marie Patterson

Art Unit

3728

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other:

***Claim Rejections - 35 USC § 112***

1. Claims 13, 15, 17, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13 the phrases "the bottom of said heel" and "the top of the rearfoot portion" lack antecedent basis rendering the claim vague and indefinite.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12, 14, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Brien (4073075).

O'Brien shows a shoe comprising a forefoot wedge (10), a lateral stabilizer (13), and a sole (21) and the wedge and stabilizer located in the forefoot portion (see column 5 line 3) and discusses dimensions which would result in a height of 1/8 to 1/4 inch (see column 3 line 67 and column 4 lines 48-55) as claimed.

***Allowable Subject Matter***

4. Claims 13, 15, 17, and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Application/Control Number: 09/617,732  
Art Unit: 3728

Page 3

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

1. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648. For applicant's convenience, the Group Technological Center FAX number is (703) 872-9302. (Note that the Examiner cannot confirm receipt of faxes). Please identify Examiner \_\_\_\_ of Art Unit \_\_\_\_ at the top of your cover sheet of any correspondence submitted.

Inquiries only concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to Valerie Douglas at (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.

  
M.D. Patterson  
Primary Examiner



<b>Notice of References Cited</b>	Application/Control No. 09/617,732	Applicant(s)/Patent Under Reexamination CUMMINGS ET AL	
	Examiner Marie Patterson	Art Unit 3728	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-4,073,075	02-1978	O'Brien, John P.	36/127
	B	US-4,118,034	10-1978	O'Brien, John P.	36/127
	C	US-4,402,146	09-1983	Parracho et al.	36/129
	D	US-4,484,397	11-1984	Curley, Jr., John J.	36/132
	E	US-912,882	02-1909	Lendgren	36/69
	F	US-211,017	12-1878	Hughes et al	36/69
	G	US-3,218,734	11-1965	O'Brien	36/127
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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Attorney Docket: JWB-2000-5-P

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : William G. Cummings et al.  
Serial No. : 09/617,732  
Filed : July 17, 2000  
For : Stabilizer Athletic Shoes  
Art Unit : 3728  
Examiner : Marie Patterson

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AUG - 9 2002

**AMENDMENT**

TECHNOLOGY CENTER 80700

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

SIR:

In response to the Office Action dated July 1, 2002, kindly amend the  
above-referenced as follows:

**In the Claims:**

Please amend claims 12, 15, 17 and 19 as set forth below, and cancel  
claims 13, 14, 16 and 18, without prejudice.

*Please enter  
mop 8/29/02*

3728  
EP  
8-23-02  
14/E  
(14/E)  
X. Colby  
8/27/02

X

**In the Claims**

**Please replace claim 12, with the following rewritten claim:**

13 12. A stabilizer athletic shoe comprising a sole having a bottom portion, a forefoot having a top portion, a rearfoot portion, an edge and a heel portion, said forefoot portion having a medial part and a lateral part, an external lateral foot stabilizer attached to the edge of said sole, a bottom forefoot wedge member attached to the bottom of said sole, a medial heel wedge having a bottom portion wherein said heel wedge spans substantially the entire length, and about one-half the width of said heel, and a heel stabilizer extending from the bottom portion of said heel to the top of the rearfoot portion.

13

In the Claims

Please replace claim 15, with the following rewritten claim:

9. 15. <sup>2</sup> A stabilizer athletic shoe as in claim <sup>1</sup> 12 wherein said external lateral foot stabilizer is from about  $\frac{1}{8}$  to about  $\frac{1}{4}$  inch thick, with the thickness increasing from said medial part to said lateral part of said forefoot portion.

In the Claims

Please replace claim 17, with the following rewritten claim:

10. 17. <sup>3</sup> A stabilizer athletic shoe as in claim <sup>1</sup> 12 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

In the Claims

Please replace claim 19, with the following rewritten claim:

11. 19. <sup>4</sup> A stabilizer athletic shoe as in claim <sup>2</sup> 15 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims**

**Claim 12, has been amended as follows:**

12. A stabilizer athletic shoe comprising a sole having a bottom portion, a forefoot having a top portion, a rearfoot portion, an edge and a heel portion, said forefoot portion having a medial part and a lateral part, an external lateral foot stabilizer attached to the edge of said sole, [and] a bottom forefoot wedge member attached to the bottom of said sole[.] a medial heel wedge having a bottom portion wherein said heel wedge spans substantially the entire length, and about one-half the width of said heel, and a heel stabilizer extending from the bottom portion of said heel to the top of the rearfoot portion.

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims**

**Claim 15, has been amended as follows:**

15. A stabilizer athletic shoe as in claim [13] 12 wherein said external lateral foot stabilizer is from about  $\frac{1}{8}$  to about  $\frac{1}{4}$  inch thick, with the thickness increasing from said medial part to said lateral part of said forefoot portion.

**In the Claims**

**Claim 17 has been amended as follows:**

17. A stabilizer athletic shoe as in claim [13] 12 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

**In the Claims**

**Claim 19 has been amended as follows:**

19. A stabilizer athletic shoe as in claim ~~15~~ 13 wherein said bottom forefoot wedge member and said lateral foot stabilizer partly overlap one another.

*MDP  
9/10/82*

*X*


**REMARKS**

Claims 13, 14, 16 and 18 have been cancelled, without prejudice. Claims 12, 15, 17 and 19 have been amended.

In the Office Action, claims 13, 15, 17 and 19 have been indicated to be allowable if amended to include all the limitations of the base claim and any intervening claims. Rather than amending claim 13 to include the limitations of claim 12, it is believed to be more practical to amend claim 12 to include all the limitations of claim 13 and to amend the dependency of claims 15, 17 and 19. It is believed that this amendment is in compliance with the requirements by the Examiner.

In view of the foregoing amendment, a favorable action is requested on claims 12, 15, 17 and 19, which are now all the claims in this application.

Respectfully submitted,

  
James W. Badie, Reg. No. 20,968  
Attorney for Applicants  
Stoll, Miskin, Hoffman & Badie  
The Empire State Building  
350 Fifth Avenue, Suite 6110  
New York, New York 10118  
Telephone: (212) 244-5632



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PTO/SB92 (08-00)

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U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Washington, D.C. 20231

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on August 1, 2002  
Date

TECHNOLOGY CENTER DC 100

Nancy Soto  
Signature

Nancy Soto  
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Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/617,732	CUMMINGS ET AL	
	Examiner	Art Unit	
	Marie Patterson	3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

At claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 8/8/02.
2. ☒ The allowed claim(s) is/are 12, 15, 17 and 19.
3. ☒ The drawings filed on 7/17/00 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ Including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_
  - (b) ☐ Including changes required by the proposed drawing correction filed \_\_\_\_\_ which has been approved by the Examiner.
  - (c) ☐ Including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.
9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1 <input type="checkbox"/> Notice of References Cited (PTO-892) 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ 6 <input type="checkbox"/> Examiner's Amendment/Comment 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9 <input type="checkbox"/> Other
--	--

Marie Patterson  
 Primary Examiner  
 Art Unit: 3728



## UNITED STATES PATENT AND TRADEMARK OFFICE

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## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 08/29/2002  
James W Badie  
Stoll Miskin Hoffman & Badie  
Empire State Building Suite 6110  
350 Fifth Avenue  
New York, NY 10118

EXAMINER

PATTERSON, MARIE D

ART UNIT

CLASS-SUBCLASS

3728

036-142000

DATE MAILED: 08/29/2002

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-5-P	7849

TITLE OF INVENTION: STABILIZER ATHLETIC SHOES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$640	\$0	\$640	11/29/2002

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.
- ☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Box ISSUE FEE**  
**Commissioner for Patents**  
**Washington, D.C. 20231**  
**Fax** **(703)746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Legibly print-up with any corrections or use block 1)  
7590 08/29/2002

James W Badie  
Stoll Miskin Hoffman & Badie  
Empire State Building Suite 6110  
350 Fifth Avenue  
New York, NY 10118

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-5-P	7849

**TITLE OF INVENTION:** STABILIZER ATHLETIC SHOES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$640	\$0	\$640	11/29/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
PATTERSON, MARIE D	3728	036-142000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47, Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee  
☐ Publication Fee  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-5-P	7849
James W Badie Stoll Miskin Hoffman & Badie Empire State Building Suite 6110 350 Fifth Avenue New York, NY 10118			EXAMINER PATTERSON, MARIE D	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 08/29/2002

**Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)**  
(application filed on or after May 29, 2000)

The patent term adjustment to date is 0 days. If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the term adjustment will be 0 days.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-S-P	7849
7590 08/29/2002				
EXAMINER				
PATTERSON, MARIE D				
James W Badie Stoll Miskin Hoffman & Badie Empire State Building Suite 6110 350 Fifth Avenue New York, NY 10118 UNITED STATES			ART UNIT PAPER NUMBER	
			3728	
DATE MAILED: 08/29/2002				

Notice of Possible Fee Increase on October 1, 2002

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2002, then the amount due may be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there may be an increase in fees effective on October 1, 2002. See Revision of Patent and Trademark Fees for Fiscal Year 2003: Notice of Proposed Rulemaking, 67 Fed. Reg. 30634, 30636 (May 7, 2002). Although a change to the amount of the publication fee is not currently proposed for October 2002, if the issue fee or publication fee is to be paid on or after October 1, 2002, applicant should check the USPTO web site for the current fees before submitting the payment. The USPTO Internet address for the fee schedule is: <http://www.uspto.gov/main/howtofees.htm>.

If the issue fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due," but not the correct amount in view of any fee increase, a "Notice to Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice to Pay Balance of Issue Fee," if the response to the Notice of Allowance and Fee(s) due form is to be filed on or after October 1, 2002 (or mailed with a certificate of mailing on or after October 1, 2002), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Box ISSUE FEE  
Commissioner for Patents  
Washington, D.C. 20231  
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All other correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Please legibly print - with any corrections or use Block 1)  
7590 06/29/2002

James W Badie  
Stoll Miskin Hoffman & Badie  
Empire State Building Suite 6110  
350 Fifth Avenue  
New York, NY 10118

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Nancy Soto (Depositor's name)  
Nancy Soto (Signature)  
9-11-02 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,732	07/17/2000	William G. Cummings	JWB-2000-3-P	7649

TITLE OF INVENTION: STABILIZER ATHLETIC SHOES

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$640	\$0	\$640	11/29/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
PATTERSON, MARIE D	3728	036-142000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.33).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

## 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ Individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☒ Issue Fee☐ Publication Fee☐ Advance Order - # of Copies \_\_\_\_\_

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Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

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(Date)

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PTOL-45 (REV. 04-02) Approved for use through 01/31/2004. OMB 0651-0033

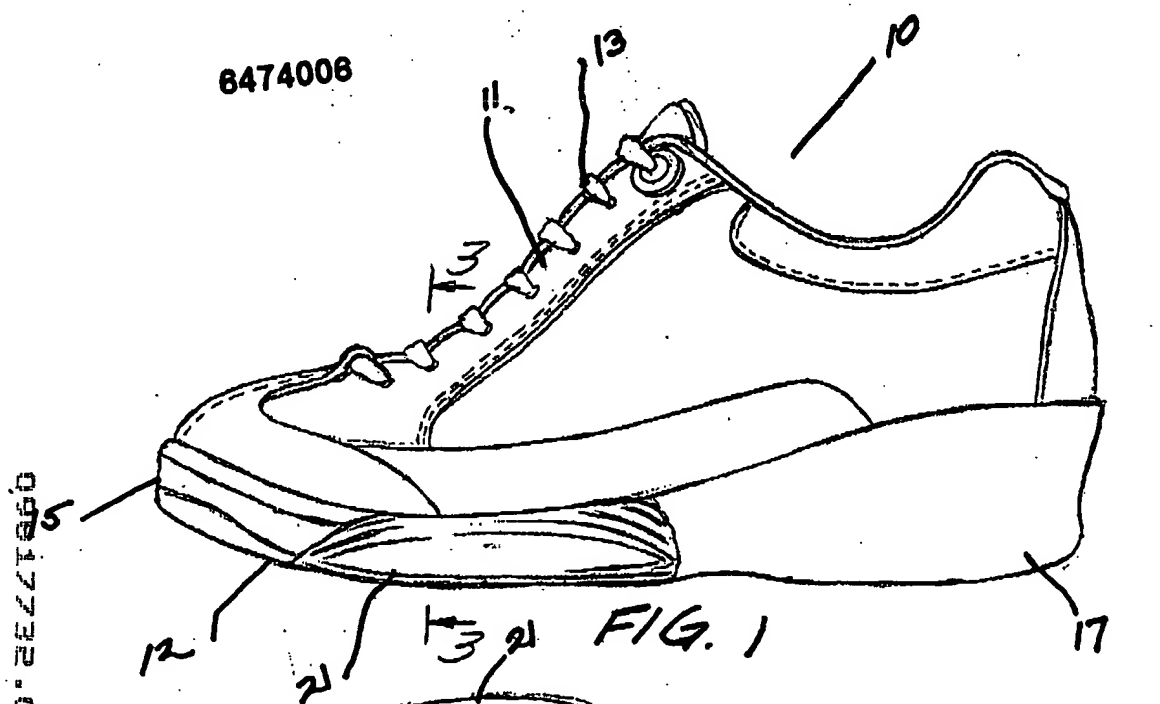
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

09/26/2002 CNBU/EM 00000120 09617732

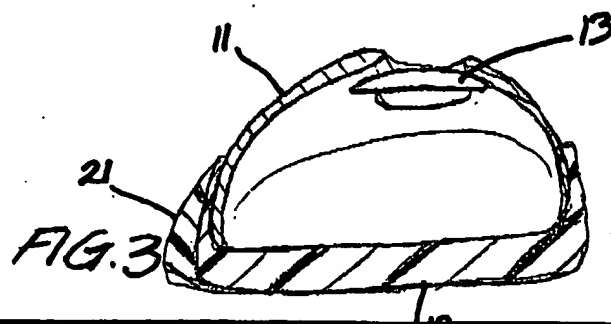
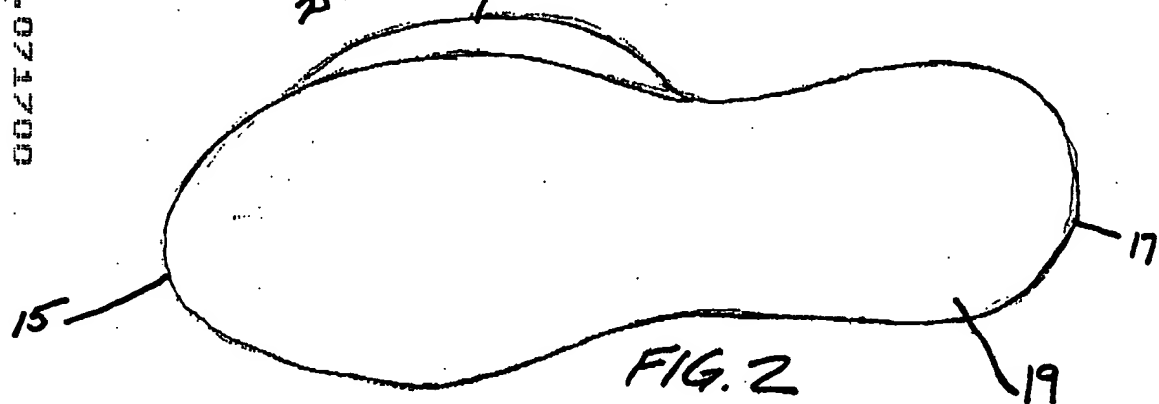
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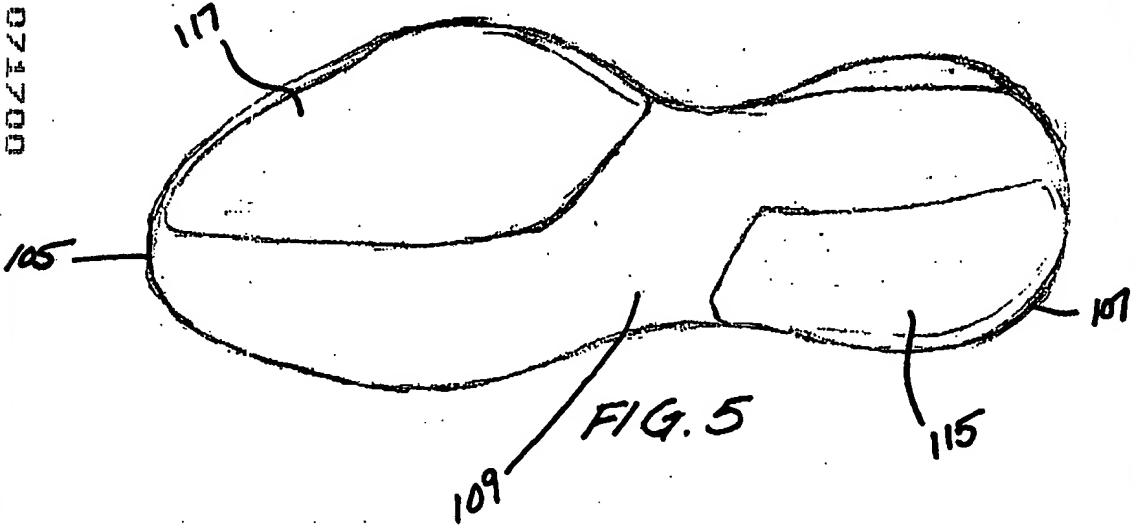
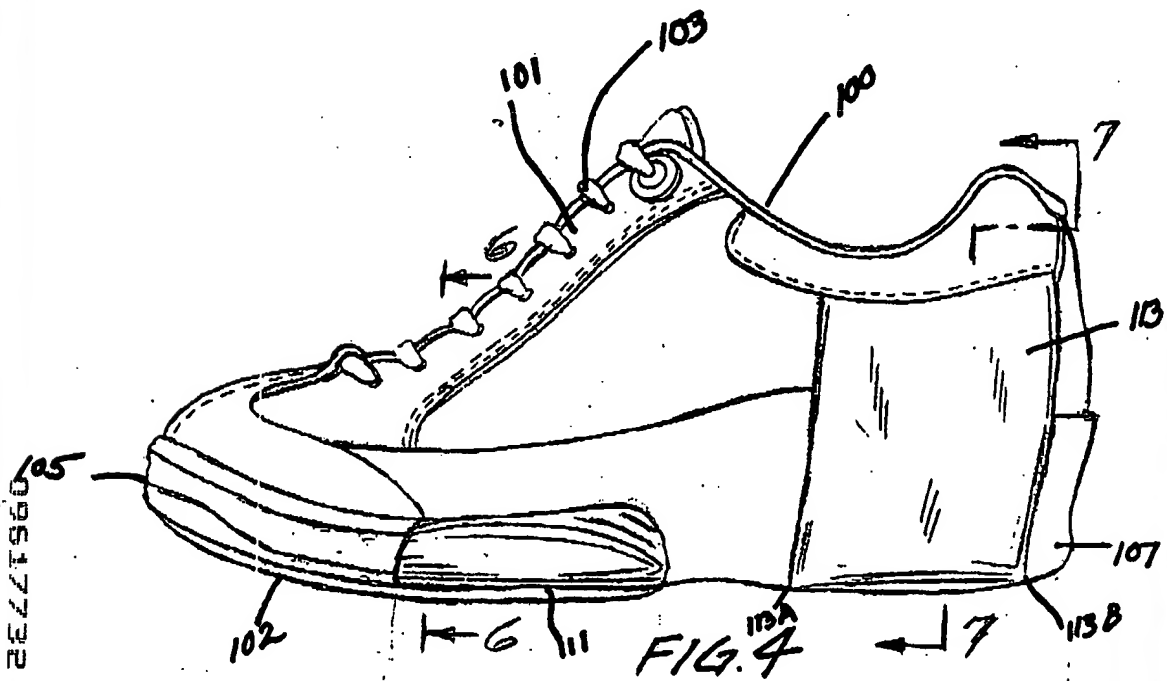
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09617732, 071700

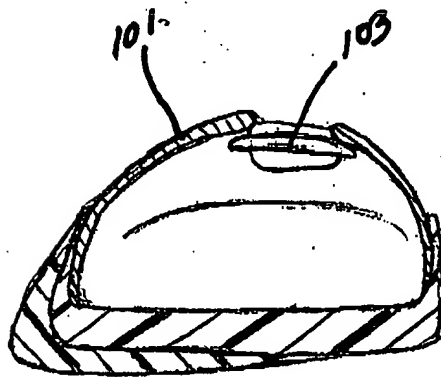


FIG. 6

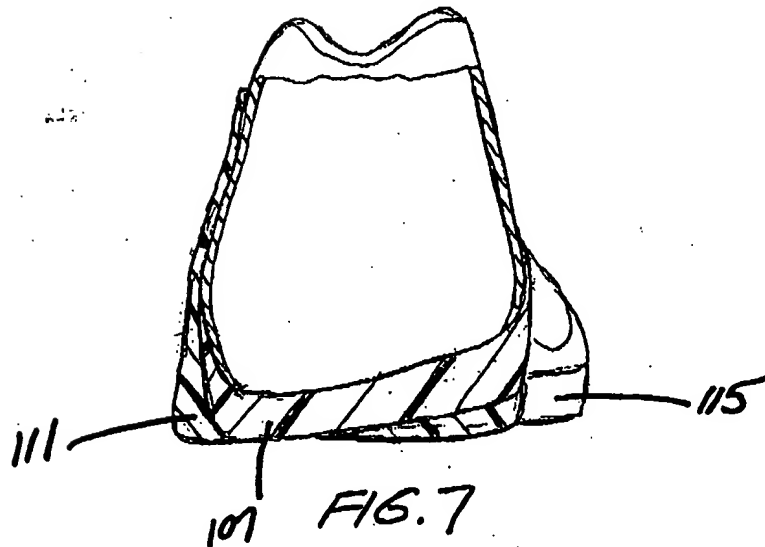


FIG. 7

**PATENT APPLICATION FEE DETERMINATION RECORD**  
Effective December 29, 1999

Application or Docket Number

417700

**CLAIMS AS FILED - PART I**

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA
BASIC FEE		
TOTAL CLAIMS	2 minus 20 =	
INDEPENDENT CLAIMS	1 minus 3 =	
MULTIPLE DEPENDENT CLAIM PRESENT		

\* If the difference in column 1 is less than zero, enter "0" in column 2

**CLAIMS AS AMENDED - PART II**

AMENDMENT A	(Column 1) CLAIMS REMAINING AFTER AMENDMENT	(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	•	Minus **	=
Independent	•	Minus ***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			

AMENDMENT B	(Column 1) CLAIMS REMAINING AFTER AMENDMENT	(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	•	Minus **	=
Independent	•	Minus ***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			

AMENDMENT C	(Column 1) CLAIMS REMAINING AFTER AMENDMENT	(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	•	Minus **	=
Independent	•	Minus ***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			

\* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.  
 \*\* If the "Highest Number Previously Paid For" in THIS SPACE is less than 20, enter "20."  
 \*\*\* If the "Highest Number Previously Paid For" in THIS SPACE is less than 3, enter "3."  
 The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

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TYPE ☐

OR  
OTHER THAN  
SMALL ENTITY

RATE	FEE	OR	RATE	FEE
	345.00	OR		690.00
X\$ 9=		OR	X\$18=	
X39=		OR	X78=	
+130=		OR	+260=	
TOTAL	845	OR	TOTAL	

SMALL ENTITY

OR  
OTHER THAN  
SMALL ENTITY

RATE	ADDI- TIONAL FEE	OR	RATE	ADDI- TIONAL FEE
X\$ 9=		OR	X\$18=	
X39=		OR	X78=	
+130=		OR	+260=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

RATE	ADDI- TIONAL FEE	OR	RATE	ADDI- TIONAL FEE
X\$ 9=		OR	X\$18=	
X39=		OR	X78=	
+130=		OR	+260=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

RATE	ADDI- TIONAL FEE	OR	RATE	ADDI- TIONAL FEE
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X39=		OR	X78=	
+130=		OR	+260=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

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